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1 UNITED STATES DISTRICT COURT  
2 SOUTHERN DISTRICT OF NEW YORK

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3 ENRICHETTA RAVINA,

4 Plaintiff,

5 v.

16 CV 2137 (RA)

6 COLUMBIA UNIVERSITY,

7 Defendant.

Jury Trial

8 -----x

9 New York, N.Y.

10 July 9, 2018

9:45 a.m.

11 Before:

12 HON. RONNIE ABRAMS

13 District Judge

14  
15 APPEARANCES

16 SANFORD HEISLER SHARP LLP

17 Attorneys for Plaintiff

18 BY: DAVID SANFORD

19 ALEXANDRA HARWIN

MELINDA KOSTER

20 PROSKAUER ROSE LLP

21 Attorneys for Defendants

22 BY: BETTINA B. PLEVAN

RACHEL S. FISCHER

STEVEN D. HURD

23 HERNSTADT ATLAS PLLC

24 Attorneys for Defendant Bekaert

25 BY: EDWARD HERNSTADT

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(In open court)

THE COURT: I signed off on the newest request to bring in technology. Is there anything else you need on that front for purposes of today?

MR. SANFORD: I don't think so, your Honor. Thank you very much.

THE COURT: Okay.

MS. PLEVAN: Nothing else.

THE COURT: You're all okay.

Okay. So I think the most pressing issue is to discuss the case summary, and I understand you just handed up two different copies. So I'm happy to review them now.

So do you want to be heard at all on the differences between these? I mean, frankly, I'm inclined to take plaintiff's description from plaintiff and defendants' description from defendants. But it seems like Professor Bekaert's is the same in both and that it's Professor Ravina's and Columbia's that differ a little bit. Does anyone have a problem with letting me use plaintiff's description?

MR. SANFORD: We're fine with that, your Honor.

THE COURT: Okay.

MR. HERNSTADT: There were two things in plaintiff's description that I would object to. One is the "otherwise treating her inappropriately."

Also, under New York City Human Rights Law, gender

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1 discrimination includes everything, so breaking it up into  
2 different pieces doesn't seem appropriate. That's why we had  
3 it a little simpler in the original version, which was sent to  
4 them last week.

5 Also, the last sentence, "In addition, he interfered  
6 with her ability to obtain tenure." Retaliation is already  
7 covered --

8 THE COURT: Just go back a minute. When you talked  
9 about under New York City Human Rights Law.

10 MR. HERNSTADT: The New York City Human Rights Law has  
11 a prohibition against gender discrimination. Unlike federal  
12 law, it hasn't been broken into separate types of gender  
13 discrimination, like hostile work environment, quid pro quo.  
14 It's just different treatment because of gender. And to break  
15 it up here in court, under the federal law, where there is no  
16 federal discrimination claim left in this case, I thought it  
17 was inappropriate. I was okay with "discriminated against her  
18 based on gender and sexually harassing her," because I think  
19 that communicates fully what the allegations are, but the last  
20 phrase, "otherwise treating her inappropriately," it's sort of  
21 a piling on without adding anything to the actual allegation.

22 THE COURT: What does that phrase add in your view,  
23 the "otherwise treating her inappropriately"? And  
24 "inappropriately," what does that even mean?

25 MS. HARWIN: Well, as defense counsel just said, the

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1 New York City Human Rights Law, which we adhered to here, these  
2 are modifiers. These are examples of types of conduct that  
3 qualified for that, sexually harassing, subjecting to hostile  
4 work environment, and "otherwise treating inappropriately" is  
5 to capture the idea that it's not limited to those categories  
6 of sexual harassment or hostile work environment. "Other  
7 inappropriate treatment" based on gender also qualifies as a  
8 violation of the New York City Human Rights Law.

9 Also, your Honor, because sexual harassment, hostile  
10 work environment are a more familiar concept to many people  
11 than the unitary standard of the New York City Human Rights  
12 Law, I think it is important to include some of that additional  
13 description.

14 THE COURT: All right. What about changing that  
15 phrase to "discriminated against her based on her gender by,  
16 among other things, sexually harassing her and subjecting her  
17 to hostile work environment," period?

18 MS. HARWIN: That's fine, your Honor.

19 THE COURT: And then Mr. Hernstadt, what was your  
20 other objection?

21 MR. HERNSTADT: The last sentence that "Ravina claims  
22 that Bekaert's conduct interfered with her ability to obtain  
23 tenure at Columbia Business School," that's not a claim that's  
24 been leveled specifically against him. The claim against  
25 Professor Bekaert is that he delayed or obstructed her work and

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1 that therefore that made it difficult for her to get tenure,  
2 which is the retaliation claim. Retaliation is already  
3 covered. Alleges that both Bekaert and Columbia retaliated  
4 against her, but it's because of her complaints. To blame  
5 Bekaert for this really loads the deck. This is something  
6 that -- most of the case about tenure is against Columbia, not  
7 against Bekaert. Whatever wrongs that have been argued that he  
8 did are limited to delaying work on one of the papers on  
9 which -- of the many papers on which Professor Ravina was  
10 working.

11 THE COURT: Would you be more comfortable with the  
12 language if we added in the fact that Ravina claims that  
13 Bekaert's conduct delayed her work and thus interfered with her  
14 ability to obtain tenure?

15 MR. HERNSTADT: I would prefer it's limited to delayed  
16 her work. You know, that's a big stretch for plaintiff that  
17 she's going to have to prove that Bekaert's delays interfered  
18 with her tenure. That's not what their case has been up to  
19 now. Up to now it's been Bekaert delayed, that harmed her, but  
20 that she didn't get tenure because of a lot of things that not  
21 just Bekaert, but both defendants did.

22 And I'm not saying you should put Columbia in. I'm  
23 saying that I think it's sufficient for a case summary to say  
24 that, and that Bekaert's conduct delayed her work, and caused  
25 her harm, if they want to say that. I think it's inappropriate

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1 to get so specific at this point in the case. They have to  
2 hear the evidence.

3 MS. HARWIN: Your Honor, this was building on the  
4 description that you provided. I think we just broke it up  
5 into a different sentence or moved it from one spot to another.  
6 Given the cat's paw theory of liability, I think it's critical  
7 to have some sentence that deals with this issue, especially in  
8 light of the description provided by Columbia, which deals with  
9 tenure squarely.

10 THE COURT: I'm going to allow in the sentence. If  
11 you want me to add in more language, then I'm willing to do  
12 that to focus on delaying her work, but otherwise I'll leave it  
13 as is.

14 So, Mr. Hernstadt --

15 MR. HERNSTADT: Yes. You could say by delaying her  
16 work --

17 THE COURT: -- do you have a problem with that,  
18 saying, "Ravina claims that by delaying her work, Bekaert's  
19 conduct interfered with her ability to obtain tenure at  
20 Columbia Business School"? Are you comfortable with that?

21 MS. HARWIN: I don't think that we would want that  
22 couched in quite that way, which is --

23 THE COURT: How else would his conduct interfere with  
24 her ability to obtain tenure, from your perspective?

25 MS. HARWIN: Well, there's also evidence regarding

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1 Professor Bekaert's relationship with Robert Hodrick, his  
2 disparagement of her in the field, and so we wouldn't want to  
3 limit it to simply the feature of delaying work, but that is  
4 certainly a component.

5 THE COURT: All right. I think in light of the  
6 allegations with respect to retaliation, I'm going to leave in  
7 that sentence as is.

8 All right. But otherwise, do we need to talk about  
9 the last paragraph at all or no?

10 Okay. All right. So we have a summary.

11 I'm going to hand out now the jury questionnaire. We  
12 made the few corrections that we discussed. So I don't know if  
13 you need to look at these again, if that's not necessary?

14 I also wanted to let you know, it turns out that I'm  
15 going to sit Friday from 9:30 to 5:30, the way we are the rest  
16 of the week, okay? That sentencing was pushed off for another  
17 reason.

18 So anything we need to talk about regarding the voir  
19 dire?

20 I just want to make sure we talk about what's most  
21 pressing first. I understand that plaintiff has withdrawn the  
22 request to call Dr. Goldberg and that that was a pressing issue  
23 timewise. It's no longer an issue. But is there anything else  
24 with respect to voir dire that we need to discuss?

25 MS. HARWIN: Not from our perspective, your Honor.

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1 THE COURT: Okay. And defendants?

2 MS. PLEVAN: No, I don't think so, your Honor.

3 THE COURT: Okay. Are there any rulings? Because I  
4 got a host of letters this morning, so I haven't yet read  
5 everything yet. Is there anything you need to know for  
6 purposes of opening statements? Are there any particular  
7 rulings you need? I'll make sure that over the lunch break or  
8 in advance of opening statements I give you rulings on them,  
9 but I'm happy to hear you out on whatever is most pressing from  
10 your perspectives.

11 MR. SANFORD: I think the only thing from plaintiff's  
12 perspective, your Honor, is slides we'd like to use in opening.  
13 We sent slides to defense counsel this morning. They object.  
14 They're fairly neutral. We're happy to share them. We're  
15 getting hard copies made up right now in the conference room in  
16 the courthouse, so we'll have copies for the Court. We also  
17 will get them loaded on the screen for the Court's review.

18 THE COURT: I'm happy to take a look at them. Are  
19 they demonstratives? Are they exhibits?

20 MR. SANFORD: They're demonstratives. And it's just  
21 kind of a neutral recitation following the outline of my  
22 opening.

23 MS. PLEVAN: Your Honor, the last few times I asked  
24 permission to use slides in openings, the judge did not want  
25 that, so I didn't raise it as a possibility here. Neither did



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1 Mr. Sanford at our final pretrial conference. These were  
2 delivered to us literally at 7:30 this morning. They are not  
3 completely neutral at all. We object in general on principle.  
4 It's just too late to have shown these to us this morning. And  
5 secondarily, there are many, many slides that refer generally  
6 to things so we object to them coming in. And other places  
7 where the statements are not neutral.

8 THE COURT: Issues that I have not ruled on the  
9 admissibility of that particular evidence yet?

10 MS. PLEVAN: Well, to the extent that there are  
11 objections to exhibits that, you know, clearly have not been  
12 ruled on -- and I have to now find them.

13 THE COURT: I'm happy to take a look at them. I will  
14 tell you I don't normally have attorneys use slides on opening  
15 statements. On summation I'm more open to using  
16 demonstratives, but --

17 MR. SANFORD: Well, your Honor, I don't think it's a  
18 major deal, and I'm happy to withdraw.

19 THE COURT: Okay. All right. So that issue is  
20 decided.

21 Is there anything else that you need to know for  
22 purposes of your opening statements? Any particular rulings  
23 you need, anything you want to talk about that will affect  
24 either voir dire or opening statements?

25 MS. PLEVAN: Not voir dire, but the issue of the

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1 de facto tenure.

2 THE COURT: Okay. So why don't we talk about that.  
3 And I created a timeline, and I want to have you help me walk  
4 through the timing and also clarify what statements were made  
5 in the settlement context and which weren't, in your view.

6 So on March 22nd of 2016, plaintiff filed this  
7 lawsuit. On March 25th, plaintiff's counsel tells Columbia's  
8 counsel that Professor Ravina will sign any sort of waiver  
9 necessary for de facto tenure. What context was that statement  
10 made in? And is that date accurate?

11 MR. MELZER: That's the date of an email from  
12 plaintiff's counsel to defense counsel and in the context of  
13 trying to resolve matters in the lawsuit, and it also refers to  
14 prior communications that said, "As you know, our client has  
15 repeatedly indicated that she is willing to sign any sort of  
16 waiver necessary for de facto tenure." That refers to prior  
17 oral communications made in February 2016. I also now  
18 understand that our client communicated her willingness to  
19 waive de facto tenure during the fall of 2015 to her division  
20 chair, Professor Zeldes, as well as another professor in her  
21 department.

22 THE COURT: And I'm sorry. You are Mr. McKnight, is  
23 that right?

24 MR. MELZER: Mr. Melzer.

25 THE COURT: Mr. Melzer. All right. I'm sorry. Thank

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1 you.

2 So just to be clear, the first statement was made  
3 between lawyers in an effort to resolve the suit.

4 MR. MELZER: The statements in February and March of  
5 2016, correct. But my client made statements to people in her  
6 department, her division chair and another senior professor, in  
7 the fall of 2015, that she was willing to waive de facto tenure  
8 if that were an issue. Columbia didn't directly tell her that  
9 that was an issue involving the extension, but because of  
10 things that she heard through the grapevine, she did make --  
11 she volunteered that to the division chair, that she was  
12 willing to do so.

13 MS. PLEVAN: This was not disclosed yesterday. This  
14 was brand new information. But I'm not sure it matters,  
15 really. It's clear that throughout this -- I mean, first of  
16 all, that the conversations, or these email communications,  
17 were all related to the preliminary injunction hearing, as a  
18 way of resolving it with consent and a stipulation. Again,  
19 very similar to the point we made earlier, that a resolution of  
20 an issue that didn't get resolved in that way, so it wasn't  
21 some sort of document that the plaintiff signed saying, I  
22 hereby waive something. And there are answers to this. But  
23 now we're hearing for the first time this morning that, well,  
24 she said something about de facto tenure to somebody in her  
25 division. And I think we can't view that as being something

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1 that's legally effective or would be effective for lots of  
2 reasons that we state in the letter we submitted to the Court  
3 this morning. There are serious questions about whether a  
4 waiver could be effective at all and particularly involving a  
5 discrimination claim where it in effect would be a waiver of a  
6 future right. But she's referring I believe to a conversation  
7 she's having with her division chief, who doesn't have  
8 authority in this area anyway for the university. It was an  
9 issue for the provost. But it's more settlement discussions.  
10 I mean, they're talking about how could she, you know, persuade  
11 somebody to give her more time, which is --

12 THE COURT: If she made these statements outside the  
13 context, not through a lawyer but herself to individuals at  
14 Columbia, why shouldn't that come in just to tell the jury a  
15 complete story? I mean, as I said the other day, I do think  
16 it's appropriate for Columbia to explain the timing based on  
17 its concern about de facto tenure, but on the other hand, I  
18 want to allow plaintiff, if it's not solely within the context  
19 of settlement talks, the opportunity to say, I don't really  
20 believe that's true, I think that's a pretext, and here's why;  
21 I made these statements that I was willing to waive it. I  
22 mean, I'm inclined to allow both sides to get out the  
23 appropriate facts to make their arguments.

24 MS. PLEVAN: There was a response to that --

25 THE COURT: Yes. That's why I'm trying to figure out

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1 exactly what was in the context of settlement discussions, what  
2 wasn't, and how can you both get out your positions.

3 MS. PLEVAN: I think what we would ask, and probably  
4 hearing the guidance from you regarding the openings, that we  
5 be allowed to go into this subject of de facto tenure  
6 ourselves, but the Court did direct the plaintiff to say  
7 specifically when this waiver allegedly occurred, and we're  
8 hearing new things now, and I would ask that by the end of the  
9 day they provide us with a writing representing what that  
10 testimony is going to be.

11 THE COURT: Okay. You just mean a letter indicating  
12 exactly precisely when --

13 MS. PLEVAN: Yes.

14 THE COURT: -- what statements were made.

15 MS. PLEVAN: Because it wasn't in the letter they  
16 served on us.

17 THE COURT: Okay. I think that's fair.

18 So can you just put that in writing later today  
19 exactly what you're relying on with respect to prior statements  
20 made by Professor Ravina regarding a willingness to waive  
21 tenure --

22 MR. MELZER: Yes, your Honor.

23 THE COURT: -- or waive the de facto tenure issue.  
24 Okay. But I am going to allow Columbia to argue this. I think  
25 the harder question was what to allow plaintiff to elicit, to

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1 counter that argument.

2 MS. PLEVAN: It's for that particular context, so once  
3 we get the representation as to when and where exactly this  
4 occurred -- and I understand your Honor's thinking on this.

5 THE COURT: Okay.

6 MR. MELZER: Well, your Honor, our client did -- I'm  
7 advised that she did raise it with her division chair, who's a  
8 member of Columbia administration. It was raised by the  
9 lawyers numerous times in the settlement context. However, it  
10 is not a communication on the validity or amount of the  
11 underlying claims that were being negotiated. It is strictly  
12 related to Columbia's knowledge and notice that a waiver is  
13 available and that plaintiff had made clear that she was  
14 willing to and intended to make that waiver if an extension  
15 were granted. The only purpose of and relevance to the waiver  
16 is if there is an extension. So there is absolutely no reason  
17 or sense in just waiving something until there is an extension  
18 involved.

19 The other thing that we would ask the Court is to  
20 preclude any argument that the waivers made are not enforceable  
21 under the law because that argument is legally baseless.  
22 Columbia only cites general law prohibiting prospective waivers  
23 of Title VII rights. However, waivers of contractual provision  
24 for de facto tenure, in order to preserve the possibility of an  
25 extension of the tenure clock, are not waivers of Title VII

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1 rights. And it's simply not implicated here. Title VII  
2 shouldn't be used to actually inhibit plaintiff's rights.  
3 Here, she was willing to trade off a de facto tenure in order  
4 to have more time on the clock, and that's a perfectly  
5 legitimate tradeoff for someone in her position to make, and it  
6 wouldn't be, you know, implicating her rights not to be -- she  
7 wasn't agreeing to be discriminated against in the future; she  
8 wasn't agreeing that if she was discriminated against, she  
9 couldn't have a claim for it. She was just saying, give me  
10 extra time, and during that extra time I have, I won't claim  
11 that I get tenure by default or automatically, and that's  
12 acceptable and legitimate under all the applicable law, and  
13 there's nothing to say otherwise.

14 MS. PLEVAN: We don't know what she was offering, and  
15 that's part of the problem. And the more talk I hear from  
16 plaintiff's counsel, the more concerned I actually am about  
17 this, because I think it sounds like whatever Professor Ravina  
18 said, it was another settlement conversation, and the fact that  
19 it wasn't between lawyers doesn't mean that that's not what it  
20 was, and that's what it sounds like to me. And we are going to  
21 have a problem of getting into this issue. I mean, we can't be  
22 precluded from saying, you don't think it's enforceable, or  
23 would be enforceable, or that it wouldn't be enforceable.

24 MR. MELZER: We don't want to have legal argument to  
25 the jury about what kind of waivers are enforceable and

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1 prospective waivers and all this stuff because it's not a  
2 legitimate argument --

3 MS. PLEVAN: That's the problem with getting into the  
4 settlement.

5 MR. MELZER: -- involving those kind of arguments.

6 THE COURT: Well, look, in the first instance, why  
7 don't you put to paper exactly what the context was, what was  
8 said and to whom, and then we'll be able to analyze it a little  
9 bit more. I think what's relevant here is Columbia's state of  
10 mind, what the thinking was, not whether they were right under  
11 the law or wrong under the law, but what their thinking was,  
12 because that's I think what's relevant here, on this issue.  
13 But I think in the first instance, since Columbia apparently  
14 was not aware of these purported statements, you should specify  
15 exactly when they were made and to whom.

16 MR. MELZER: Yes. We will do that. But even the  
17 statements made in February, March -- February and March  
18 between the lawyers and in April by the plaintiff to the Court  
19 are relevant because Columbia engaged in the continuous course  
20 of conduct right through the vote, and even after all of those  
21 instances of waiver in February and March and April, Columbia  
22 is pressing the vote forward, is mustering the faculty, telling  
23 them that they have to vote, trying to maintain a quorum to  
24 vote, and telling them also that they have to vote and when  
25 they vote and when they deliberate, they should disregard



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1 Bekaert's conduct and how it may have affected Ravina and her  
2 record. So even at that time their state of mind is relevant.  
3 They know that plaintiff has made repeated statements that if  
4 there is an extension, she will waive de facto tenure because  
5 she does not want the de facto tenure provision to be an  
6 obstacle to an extension, and they still continued to push the  
7 vote forward in a way that sets up the conditions for a denial,  
8 and that's basically what we are claiming here.

9 THE COURT: But why doesn't this run afoul of  
10 Rule 408?

11 MR. MELZER: The reason is because the discussions  
12 were about plaintiff's claims of discrimination and  
13 retaliation. The communications that, if I get an extension,  
14 that de facto tenure shouldn't be an obstacle to an extension,  
15 if an extension were in play, I will waive de facto tenure,  
16 doesn't go to the validity or amount of the underlying claim  
17 that is being negotiated between the parties. It goes to  
18 Columbia's knowledge and notice, which is a separate purpose  
19 from the purposes that are prohibited by 408, to the knowledge  
20 and notice that plaintiff has volunteered to waive this and  
21 that a waiver is available and feasible when an extension may  
22 implicate de facto tenure rights.

23 MS. PLEVAN: I think, briefly, your Honor, that -- and  
24 we've cited cases in the letter that we submitted this morning  
25 at page 3 -- that this is going to the validity because it's

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1 her claim that she made that waiver, and she made it in the  
2 context of settlement discussions, either initially by her  
3 lawyer, and now I'm not exactly clear what the other  
4 conversation -- when that occurred, but it was in the context  
5 of resolving this dispute, and she's trying to establish that  
6 claim, that claim that she gave a waiver, and that's why I  
7 think it clearly is covered by 408.

8 MR. MELZER: The claim is not that she gave a waiver.  
9 Her claim is that she was discriminated against and retaliated  
10 against. Columbia has raised the defense that if they had  
11 given her the extension that she wanted as a remedy, then it  
12 would have run up against de facto tenure. Plaintiff then  
13 said, to the extent that might be an obstacle, I want to clear  
14 that obstacle, I waive it. So that only goes to Columbia's  
15 notice of the waiver and knowledge that a waiver is feasible  
16 and available. Columbia's notice and state of mind is at issue  
17 in the case. The mere -- the fact that something is a fact  
18 that is relevant evidence doesn't mean that it goes to the  
19 validity or amount of the underlying claim that was being  
20 discussed between the parties.

21 THE COURT: All right. So since I got the letter this  
22 morning, pursuant to our agreed-upon schedule, I haven't looked  
23 at all the cases yet, so I'm going to do that and I'll rule as  
24 soon as I can on this. I understand the time sensitivity.

25 The jury should be here around 10:30. They're

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1 watching the initial video. One thing I'll just say is, I know  
2 we have a lot of lawyers here, and I'm fine with whomever you  
3 want to argue each particular issue or handle each particular  
4 witness, but I'm just going to ask you, per issue or per  
5 witness, if we can have one lawyer per witness. So if one  
6 lawyer is questioning the witness on direct, that's the lawyer  
7 that should handle the objections, etc., okay?

8 Anything else we need to talk about? I was thinking  
9 of just giving you a short break before the jury comes in. Are  
10 there any other issues?

11 MR. HERNSTADT: Yes, your Honor. Just to return to  
12 the issue of the opening statement.

13 THE COURT: Yes.

14 MR. HERNSTADT: While I appreciate that Mr. Sanford's  
15 withdrawn the exhibits, the demonstratives, based on the  
16 demonstratives, it's clear that he's going to address exhibits  
17 that have been challenged, that he's going to talk about them  
18 in the opening statements. So I think that has to be resolved  
19 before opening.

20 THE COURT: Are there any exhibits that I have not  
21 ruled on the admissibility of and there's an objection to? We  
22 can either not have you talk about them in opening or we can  
23 talk about them now.

24 MR. HERNSTADT: Additionally, there's one slide that  
25 says Bekaert sends defamatory emails about Ravina to

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1 colleagues. There's no defamation claim in this case. That's  
2 a legal claim, and I think it's inappropriate for him to add  
3 claims that have never been raised to his opening statement.

4 MR. SANFORD: I don't make any claims about defamation  
5 in the opening statement, your Honor.

6 THE COURT: Okay. So let's just walk through the  
7 exhibits. Are there any exhibits, the admissibility of which  
8 are disputed at this point that you intend to reference in your  
9 opening? If so, I just want to make sure we talk about them  
10 before the opening.

11 MR. SANFORD: Your Honor, I do reference the faculty  
12 petitions. There are three petitions at issue in this case.  
13 Defendant I believe has objected. I'm not sure what the  
14 objection is based on because there's nothing that could be  
15 more relevant to the case than faculty petitions, putting the  
16 administration on notice about faculty concerns relating to  
17 Professor Ravina, so I do mention those petitions. If the  
18 Court would like to address that first, perhaps we could start  
19 there.

20 THE COURT: What exhibit numbers are those?

21 MR. HURD: I believe the two exhibits that Mr. Sanford  
22 are referring to are Plaintiff's Exhibits 130 and 160.

23 MR. SANFORD: And 100, your Honor.

24 THE COURT: And 100? All right. Do you want to be  
25 heard on that, and then I'll make sure to review these prior to

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1 openings.

2 MR. SANFORD: Yes, your Honor. The three exhibits,  
3 starting with the first faculty petition, which is Exhibit 100,  
4 is contained in an email from Professor Patrick Bolton to  
5 Senior Vice Dean Phillips and members of the Columbia Business  
6 School, finance and economics division, attaching the faculty  
7 petition. We intend to introduce that petition through  
8 Professor Bolton and perhaps through other people as well. The  
9 petition, in light of Professor Ravina's circumstance, calls  
10 for a change in Columbia University's policies, with respect to  
11 senior and junior faculty. And again, your Honor, there's  
12 nothing from our side that could be possibly more relevant than  
13 that type of petition, by the faculty, putting the  
14 administration on notice of the problems that Professor Ravina  
15 was experiencing and the proposed solution by the faculty --  
16 the senior faculty, the tenured faculty. I think there was a  
17 majority of the senior tenured faculty in her division that  
18 signed that petition, calling for change in policy.

19 MR. HURD: Your Honor, that has nothing to do with  
20 Ms. Ravina. It's a general policy that they're trying to  
21 instill that has to do with how different faculty treat each  
22 other. It has nothing specific to do with Professor Ravina and  
23 would be completely irrelevant, and it's also filled with  
24 hearsay about how this came about and why, why they want it.

25 MR. SANFORD: That's not quite right, your Honor.

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1 Chairman Zeldes testified that the petition was drafted and  
2 communicated in light of Professor Ravina's circumstance.

3 MR. HURD: But it's not relevant to this trial. This  
4 trial is about Professor Ravina, not Columbia's policies on how  
5 faculty treat each other generally.

6 MR. HERNSTADT: Your Honor, I understand you want one  
7 person to deal with these things, but --

8 THE COURT: No. You represent a different  
9 defendant --

10 MR. HERNSTADT: Exactly.

11 THE COURT: -- so you're free to argue any issue you  
12 want to argue.

13 MR. HERNSTADT: I add to what Mr. Hurd said. To the  
14 extent it talks about her circumstances referring to Professor  
15 Bekaert or delays, there's no personal knowledge. It's based  
16 only on what Professor Ravina told other professors at the  
17 college. And it's also prejudicial. She's been going around  
18 telling people that these terrible things are happening to her.  
19 They have no personal knowledge whatsoever. It's pure hearsay.  
20 And based on that, they've created a petition that paints my  
21 client in a very poor light. But they have no personal  
22 knowledge of it, and it would be inappropriate for this  
23 petition to come in.

24 MR. SANFORD: Your Honor, the majority of the senior  
25 tenured faculty of the division were concerned about the power

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1 dynamic between junior and senior faculty members. They were  
2 concerned in particular about the circumstance that Professor  
3 Ravina found herself in when there was a conflict. The  
4 question is what to do and who to give the presumption to. The  
5 faculty thought that the presumption should be given to the  
6 junior faculty member. That's what the petition was about.  
7 It's directly relevant to this case. It's directly relevant to  
8 Professor Ravina's circumstance.

9 THE COURT: What issue is it directly relevant to?

10 MR. SANFORD: To the issue of what kind of response  
11 Columbia University should give a junior faculty member who  
12 finds herself in the situation that Professor Ravina found  
13 herself in, and the question is what should that policy be,  
14 what should the action be, what should Columbia's action be in  
15 light of being put on notice that there's a problem between a  
16 junior faculty member and a senior faculty member. They were  
17 calling for a change in policy because they were concerned that  
18 the policies in place at Columbia were inadequate to address  
19 Professor Ravina's circumstance.

20 THE COURT: But even if that's the case, number one, I  
21 want you to address the hearsay concern; and number two, I want  
22 you to address why that necessitates a finding of liability on  
23 discrimination or retaliation as opposed to a disagreement  
24 about a policy.

25 MR. SANFORD: Well, we claim that Columbia was

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1 negligent in its response. Given the history of what happened  
2 here, Columbia was on notice and was on notice over and over  
3 again, and that's what the testimony is going to show. The  
4 question is, what did Columbia do about it? And it's our  
5 contention that Columbia did nothing about it, did nothing  
6 about it throughout the entire process, and then took certain  
7 actions which were extremely harmful to Professor Ravina. So  
8 this is a question of when Columbia was on notice of a problem,  
9 how they were put on notice, in this case by faculty, and what  
10 they did about it. It's simply a question of what they did in  
11 light of being confronted with certain claims by Professor  
12 Ravina and by others who were supporting her. And our case is  
13 about what Columbia did and didn't do, and if we can't put on  
14 our case to show what Columbia did and didn't do, we're going  
15 to be hamstrung.

16 THE COURT: Well, this isn't about what Columbia did  
17 and didn't do; it's about what was said by professors, as I  
18 understand it, to Columbia, correct?

19 MR. SANFORD: Yes, and what Columbia did in light of  
20 what was said.

21 MR. HURD: Your Honor --

22 THE COURT: I'll take a look at the exhibits.

23 Yes, go ahead.

24 MR. HURD: I'm sorry. I don't want to interrupt. But  
25 to be clear, it's an unsigned petition that Professor Bolton



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1 represents in an email is supported by the faculty. It is not  
2 a signed petition by a majority of the faculty at Columbia.

3 THE COURT: All right. So Exhibits 100, 130, and 160.

4 MR. SANFORD: Yes, your Honor.

5 THE COURT: And you intend to try and admit them  
6 through the testimony of Professor Bolton.

7 MR. SANFORD: Yes, your Honor, at least through  
8 Professor Bolton, and perhaps other witnesses as well.

9 THE COURT: And anything else you want to say about  
10 this issue?

11 MR. HERNSTADT: Only that I think, as Mr. Sanford has  
12 made clear, everything in these petitions is based on what  
13 Professor Ravina told these professors. It's pure hearsay, and  
14 I think he's made that clear.

15 THE COURT: All right. So I'll take a look at the  
16 exhibits.

17 Is there anything else we need to talk about this  
18 morning?

19 MR. SANFORD: There are emails that I reference, your  
20 Honor, in opening. Emails between Professor Bekaert and  
21 Professor Ravina, emails sent by Professor Bekaert to the  
22 community, and again, there is very little that's more relevant  
23 than those emails to our case.

24 THE COURT: All right. And what are those exhibit  
25 numbers? These are ones that there have been objections to

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1 that I have not ruled on?

2 MR. SANFORD: Well, to be clear, your Honor, I'm not  
3 making reference -- I'm making reference to certain of the  
4 emails that were sent. I'm not quoting them; I'm just  
5 characterizing them as emails that were sent from Professor  
6 Bekaert to his colleagues throughout the world; emails that  
7 Professor Bekaert sent to Professor Ravina; or emails that  
8 Professor Bekaert sent to his girlfriend.

9 THE COURT: I have ruled that those are admissible. I  
10 don't know if there are still remaining objections to  
11 particular emails that I have not ruled on, but in terms of the  
12 category of information, I've already ruled that that is  
13 proper.

14 MR. SANFORD: Thank you, your Honor.

15 THE COURT: So I think we need to just sort out, are  
16 there particular emails, particular objections to particular  
17 emails that we need to discuss before opening?

18 MR. SANFORD: I'm not aware of any objections that  
19 would apply in light of the Court's ruling.

20 THE COURT: Okay.

21 MR. HERNSTADT: There are a couple of emails that are  
22 emails between Professor Bekaert and Maria Hoerova also that  
23 are prohibited because they talk about one of the matters that  
24 we discussed, that your Honor ruled on, in terms of the  
25 argument that plaintiff has made that she's just like Maria

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1 Hoerova.

2 THE COURT: Are you going to reference that particular  
3 email?

4 MR. HERNSTADT: Those are two emails, No. 73 and  
5 No. 79.

6 MR. SANFORD: I'll look at those, your Honor. The  
7 email that I planned on referencing was the email that he sent  
8 saying that he wanted to strangle Professor Ravina.

9 THE COURT: That's coming in.

10 So if you're going to reference 73 and 79, if there's  
11 an outstanding objection that has not been addressed by my  
12 ruling already, please let me know that, all right?

13 Okay. So the jury will be here in about five minutes,  
14 so why don't we take a break.

15 MS. HARWIN: Your Honor, if I can just remind you that  
16 also there's the pending letter motion that we submitted  
17 concerning the issue of performance evaluations, and so I just  
18 want to make sure that that's on your Honor's radar, because it  
19 potentially affects openings as well.

20 THE COURT: Okay. So tell me exactly what the issue  
21 is on that.

22 MS. HARWIN: So on that, we had previously moved to  
23 preclude evidence concerning plaintiff's annual reviews. The  
24 Court ruled on that. Defendant subsequently amended their  
25 designations for testimony at trial indicating that they intend

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1 to elicit testimony regarding the annual evaluation process, a  
2 topic that they've never previously designated on their Rule 26  
3 disclosures, and we renew our request for discovery, just on  
4 the performance evaluations of the males that --

5 THE COURT: So this is your motion for  
6 reconsideration.

7 MS. HARWIN: Correct, your Honor.

8 THE COURT: Don't mention that in opening. I'll  
9 consider that request. I'll hear you out on it, but it  
10 shouldn't be mentioned in opening.

11 MS. PLEVAN: Having ruled on that issue, on the  
12 evaluations, I was planning to refer to the evaluations in my  
13 opening.

14 THE COURT: Of the men? I'm sorry.

15 MS. PLEVAN: Oh, no, no, no. I'm sorry. Of Professor  
16 Ravina's.

17 THE COURT: Professor Ravina's evaluations, of course.  
18 I thought this was the motion for reconsideration with respect  
19 to the male colleagues, the other people who were up for  
20 tenure, correct?

21 MS. HARWIN: We have moved for --

22 THE COURT: Reconsideration.

23 MS. HARWIN: Correct, but in the alternative, if we're  
24 not provided with that, we've moved for exclusion of that  
25 evidence.

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1 THE COURT: Exclusion of the evidence regarding  
2 Professor Ravina?

3 MS. HARWIN: Correct.

4 THE COURT: That request is denied. I will consider  
5 your request for reconsideration of the prior ruling, but  
6 again, since I got the letters, some of them just this morning,  
7 I want to make sure I take the time to review all the cases  
8 cited therein. So I don't think you should mention anything  
9 about that on opening, but I don't think you would because you  
10 you're really just asking for discovery.

11 MS. HARWIN: That's correct, your Honor.

12 THE COURT: All right. So why don't we take a break  
13 just for a few minutes because the jury will be here any  
14 minute. Thank you.

15 (Recess)

16 (Jury selection followed)

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1 (A jury of eight persons was selected and sworn)

2 THE COURT: Thank you all again for your patience this  
3 morning and your willingness to serve.

4 So, folks, as I said we are going to take a lunch  
5 break now. As I will discuss with you in more detail shortly,  
6 from this point on it is your duty not to discuss the case and  
7 to remain outside the presence of others who may be discussing  
8 it. So, in that regard, please understand -- I am just going  
9 to wait for a minute so that you all can hear.

10 Thank you all again.

11 I just want to make sure you understand that the  
12 parties and counsel have been instructed not to have any  
13 contact with any of you, so if you see them in the hall they  
14 are not being rude. They are just following my instructions if  
15 they don't say hello.

16 Unless and until you are excused as a juror, you  
17 should not attempt to gather any information on your own  
18 relating to this case. Don't engage in any outside reading.  
19 Don't attempt to visit any of the places that may be mentioned.  
20 Don't use the Internet, whether it's Google, Facebook, Twitter,  
21 anything to learn anything about the case or anyone involved in  
22 the case until it's over or to talk about it in any way.

23 So that includes with each other. You are not to talk  
24 about the case until it's time for you to deliberate, and it  
25 includes even your friends and family. You can advise the

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1 people in your life that you have been chosen to sit on a jury  
2 in a civil case, but you can't talk about the facts of the case  
3 in any way.

4 Again, that applies equally to communications made in  
5 person or by way of tools of technology. The reason for this,  
6 of course, is that we want you to decide the case solely based  
7 on the evidence that is offered during the course of this trial  
8 and not from some other source.

9 I am also just going to ask you to keep an open mind  
10 and reserve judgment until after all of the evidence is in.  
11 Until you have heard all the evidence and the closing arguments  
12 and my instructions on the law you really won't be in a  
13 position to reach any conclusions as to this case.

14 So, with that, I hope you have a nice lunch. Why  
15 don't you come back here at 2:45, so a little bit over an hour,  
16 and we'll start again promptly then.

17 THE COURT: Yes?

18 JUROR: Is it OK to grab our electronics at the other  
19 courthouse?

20 THE COURT: Yes.

21 THE DEPUTY CLERK: Just follow me.

22 THE COURT: Allison will help you. She will actually  
23 give you passes to get in, and she'll answer any logistical  
24 questions for now.

25 JUROR: Should we hold on to these or give them back?

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1  
2 THE COURT: You can actually give them to Ms. Cavale,  
3 and she'll throw them out. Thank you again for your patience.

4 Why don't you all come back in an hour. I will look  
5 at those exhibits that we talked about. Other than that, I  
6 think we're OK for purposes of opening statements. I'm hopeful  
7 we can get all three openings in this afternoon before 5:30 if  
8 we start promptly at 2:45.

9 OK. Thank you. Have a nice lunch.

10 (Luncheon recess)  
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1 AFTERNOON SESSION

2 2:50 p.m.

3 (In open court; jury not present)

4 THE COURT: So we're checking to see if the jury is  
5 ready. What was your intention with respect to 100, 130, and  
6 160? For purposes of opening only.

7 MR. SANFORD: Well, it's important for plaintiff to  
8 tell a story that is complete. If the Court would prefer to  
9 rule later as opposed to now, we can certainly do that, and I  
10 can extract the relevant portions in the opening. If the Court  
11 would prefer briefing on it, it's an important issue, we're  
12 happy to brief it as well.

13 THE COURT: In terms of briefing it, it's up to you.  
14 I think it's better not to mention it in opening. I do have  
15 hesitations. I mean, clearly it's hearsay. What purpose it's  
16 being admitted for is not entirely clear to me in terms of the  
17 timing, whether it was the investigation, the decision not to  
18 put off the tenure vote. I mean, obviously we have three  
19 different letters and different in nature. But I think we need  
20 to explore it further.

21 MR. SANFORD: Why don't we do that, and we're happy to  
22 provide briefing on the issue, your Honor.

23 THE COURT: All right. Thank you.

24 And these were going to come in -- I think I asked you  
25 this earlier but -- not through Professor Ravina tomorrow but

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1 through Professor Bolton and possibly others?

2 MR. SANFORD: Possibly others, but not tomorrow.

3 THE COURT: All right. Thank you.

4 We're missing three jurors. Are there any issues that  
5 we need to address before Professor Ravina's testimony  
6 tomorrow, any evidentiary issues that are unresolved? Either  
7 side? No? Okay. All right. We'll just wait for the jury.

8 Are there any other issues you'd like to raise while  
9 we're waiting? I'm happy to hear you out, but I'm also happy  
10 to just wait for the jury.

11 MS. HARWIN: This isn't a point of argument, but I  
12 wanted to point out that the parties submitted to the Court the  
13 excerpts of deposition testimony corresponding to the  
14 designations, and it would be helpful to get a ruling with  
15 respect to the objections at the Court's earliest convenience  
16 so we can prepare the video.

17 THE COURT: That's fine. And I'm happy to do that,  
18 yes.

19 MS. HARWIN: Thank you.

20 Your Honor, while we're here, we're also awaiting a  
21 ruling from you --

22 MS. PLEVAN: Can't hear you.

23 MS. HARWIN: We're waiting for a ruling as to whether  
24 we can proceed with the one-hour depositions we've requested.

25 THE COURT: Are you talking about the motion for

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1 reconsideration? You're talking about the separate one for the  
2 individuals who were noticed on the last day of discovery?

3 MS. HARWIN: That's correct, or who were never  
4 designated during discovery.

5 THE COURT: Yes. I'll let you know. I'll tell you,  
6 I'm not inclined to grant that request, but I will let you know  
7 tomorrow morning.

8 MS. HARWIN: Thank you, your Honor.

9 (Jury present)

10 THE COURT: Welcome back, folks. You can be seated.  
11 Everyone can be seated.

12 Just to let you know, we can take out some of those  
13 chairs if you want a little more space.

14 I'm just going to give you a few additional  
15 instructions now that you've been sworn, and hopefully they'll  
16 help guide you in your participation in this trial.

17 It will be your duty to find from the evidence what  
18 the facts are. You and you alone are the judges of the facts.  
19 From the evidence presented at trial, you will decide what  
20 happened. And you will then have to apply the facts to the law  
21 as I will give it to you. You must follow the law as I explain  
22 it, whether you agree with it or not.

23 As I noted earlier, nothing I say or do during the  
24 trial is intended to indicate what your verdict should be, so  
25 please don't speculate as to what I may be thinking.

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1           The evidence from which you will find the facts will  
2 consist of the testimony of the witnesses, who will sit right  
3 here, and the documents and other things that are received into  
4 the record as exhibits. The lawyers may also agree or  
5 stipulate to certain facts. You are to accept these facts as  
6 true, although you must still decide the weight, if any, to be  
7 given to those facts.

8           Certain things are not evidence and must not be  
9 considered by you as evidence, and I'll list them for you now.

10          Statements, arguments, and questions of the lawyers  
11 are not evidence. Objections to questions are not evidence.  
12 Lawyers have an obligation to their clients to make an  
13 objection when they believe that evidence is improper under our  
14 Federal Rules of Evidence.

15          You should not be influenced by an objection or my  
16 ruling on it. If the objection is sustained, the witness will  
17 not be permitted to answer the question and you must ignore the  
18 question. If the objection is overruled, the witness will be  
19 permitted to answer and you should treat the answer like any  
20 other.

21          If you are instructed that an item of evidence is  
22 being received for a limited purpose only, you must follow that  
23 instruction.

24          If I strike an answer or instruct you to disregard an  
25 answer, then that testimony is not evidence and must not be

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1 considered by you.

2 Anything that you may see or hear outside the  
3 courtroom also is not evidence and must be disregarded. Your  
4 verdict must be based solely on the evidence, or lack of  
5 evidence, presented here in this courtroom at trial.

6 One of your most important tasks is to evaluate the  
7 credibility of the witnesses who will testify here at trial.  
8 It will be up to you to decide which witnesses to believe,  
9 which witnesses not to believe, and how much of any witness'  
10 testimony to accept or to reject. I will give you some  
11 guidelines for determining the credibility of witnesses at the  
12 end of the case, but in the meantime, please just listen  
13 carefully to the witnesses as they testify and keep in mind  
14 that you will be called upon to evaluate their credibility and  
15 the truthfulness of their testimony.

16 It's important to remember that this is a civil case.  
17 You may have heard the term "beyond a reasonable doubt"  
18 standard in criminal cases. That requirement does not apply to  
19 a civil case, and you should put it out of your mind entirely.  
20 In civil cases the burden is different and it's called proof by  
21 a preponderance of the evidence. To establish facts by a  
22 preponderance of the evidence means to prove that the facts are  
23 more likely true than not true, and I'll instruct you fully on  
24 the burden of proof after all the evidence has been received.

25 Now a few words about your conduct as jurors. As I

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1 noted previously during the trial, you're not to discuss the  
2 substance of the case with anyone, nor are you to permit  
3 someone to discuss it with you. Until you retire into the jury  
4 room at the end of the case to deliberate, you're simply not to  
5 talk about this case. Don't even discuss the case with each  
6 other until you begin your deliberations at the end of the  
7 trial.

8 As I noted this morning, if you see the lawyers in  
9 this case or any of the witnesses in the hallway or at  
10 elevators, don't speak to them. They're not going to speak to  
11 you. Again, they're not being impolite. They're just  
12 following my instructions. If anyone should try and talk to  
13 you about the case, please bring it to my attention immediately  
14 by letting Ms. Cavale know. Don't tell anyone else, even your  
15 fellow jurors. And don't talk about or read about the facts or  
16 the circumstances of this case on social networking sites, such  
17 as Facebook, Twitter, Instagram, or SnapChat, and don't tweet  
18 or otherwise communicate about the substance of anything you  
19 learn during the trial on Twitter or elsewhere.

20 You're instructed not to read, listen to, or watch  
21 media reports, television, newspaper, radio, or internet about  
22 the case, or similar cases, or any of the individuals involved.  
23 And the reason for this, of course, is that you must not be  
24 influenced by anything that you may see or hear outside the  
25 courtroom. So if you inadvertently come across a news report

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1 relating to this case or a case that seems similar, just  
2 immediately stop reading, listening, or watching, and then just  
3 tell Ms. Cavale -- again, and no one else -- about that fact.

4 If at any point during the trial you recognize someone  
5 in the courtroom, including a friend or significant other, just  
6 let Ms. Cavale know. If it's during trial, you can just raise  
7 your hand.

8 Finally, just keep an open mind during the course of  
9 the trial and reserve judgment until after all the evidence is  
10 in. Until you've heard all of the evidence, the closing  
11 arguments, and my instructions on the law, as I said earlier,  
12 you're really not in a position to reach any conclusions about  
13 the case, so keep an open mind until you retire to deliberate.

14 You are permitted to take notes during the trial.  
15 Ms. Cavale has given each of you a notepad and a pen. You can  
16 write your name on the notepad. If you do take notes, just  
17 take it in those pads and nowhere else, and don't remove your  
18 notepads from the courtroom or the jury box. You can give them  
19 to Ms. Cavale at the end of the night or just leave them in the  
20 jury room.

21 Remember that any notes are for your use only, and  
22 they're only to be used as an aid to your memory. So your  
23 memory controls. If you take notes, just be careful not to get  
24 so involved in taking notes that you're not paying attention or  
25 watching the witnesses as they testify. Once you're in

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1 deliberations, if there's a disagreement between one juror's  
2 notes and another juror's notes, or between one juror's notes  
3 and another juror's recollection, you can ask to have the court  
4 reporter read back the testimony, for it's the official court  
5 transcript that controls and not one particular juror's notes.

6 During the course of the trial, exhibits will be  
7 received into evidence. They'll be marked by exhibit number.  
8 If there is an exhibit you're particularly interested in  
9 seeing, you should feel free to write down that exhibit number  
10 and you can ask to see the exhibit once you're in  
11 deliberations. But you should know that at the end of the  
12 trial, I'm going to give you a list of all the exhibits that  
13 were received in evidence, as well as a list of all the  
14 witnesses who testified, so you needn't make notes to keep  
15 track of things unless you want to.

16 Now we're going to begin the trial. As I noted for  
17 you earlier, we're going to begin each day at 9:30 and continue  
18 to 5:30. I'm going to ask you to please arrive closer to  
19 9 a.m. every day. As an incentive, I'll have breakfast waiting  
20 here for you. We can't start until all of you are here, and so  
21 if any of you are late, that means that all of us -- myself,  
22 the lawyers, the court reporter, the witnesses -- everybody  
23 will have to wait. So I'm just going to ask you to be on time.

24 And now I'm just going to tell you briefly how the  
25 trial will proceed.



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Opening - Mr. Sanford

1 First, we'll have opening statements. Plaintiff's  
2 counsel will make an opening statement and then defendants'  
3 counsel will make their opening statements. The opening  
4 statements are neither evidence nor argument. They're simply  
5 outlines of what the attorneys believe the evidence will show.  
6 And they are given to help you follow the evidence as it's  
7 presented.

8 After the opening statements, the plaintiff will  
9 present her case. The plaintiff will call her witnesses, and  
10 after each witness testifies on direct examination, counsel for  
11 defendants will have an opportunity to cross-examine those  
12 witnesses. After cross-examination there may be a little bit  
13 of what we call redirect and recross-examination.

14 Following the plaintiff's case, the plaintiff will  
15 rest and the defendants may then present a defense case, and  
16 then counsel for plaintiff will have the opportunity to  
17 cross-examine any witnesses that are testifying for the  
18 defendants.

19 After the presentation of the evidence is completed  
20 and both sides have rested, the attorneys will deliver their  
21 closing arguments to summarize and interpret the evidence.  
22 Just as lawyers' opening statements aren't evidence, the  
23 closing arguments aren't either, although they are arguments.

24 Following closing arguments, I will instruct you as to  
25 the law, and you will then finally retire to deliberate on your

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Opening - Mr. Sanford

1 verdict, which must be unanimous, and must be based on the  
2 evidence presented at trial.

3 You have a tremendously important task as jurors. It  
4 is to determine the facts. You and you alone -- not the Court,  
5 you and you alone -- are the sole judges of the facts. The  
6 Constitution itself recognizes your unique role in our system  
7 of justice. So please just pay careful attention to the  
8 witnesses and the evidence received at trial, as well as my  
9 instructions on the law. Keep an open mind.

10 And with that, we will now proceed.

11 MR. SANFORD: Thank you, your Honor.

12 THE COURT: Yes, of course.

13 MR. SANFORD: May it please the Court. Ladies and  
14 gentlemen of the jury, good afternoon.

15 This is a case about how a senior male professor at  
16 the Columbia Business School, Professor Geert Bekaert, here in  
17 this courtroom sitting at counsel table for the defendant,  
18 abused his power by sexually harassing, discriminating, and  
19 retaliating against a junior female professor, Professor  
20 Enrichetta Ravina, sitting at plaintiff's counsel table.

21 The case is about an elite institution, Columbia  
22 University, and its failure to protect Professor Ravina. And  
23 it is about the harm that Professor Ravina suffered because of  
24 what Professor Bekaert and Columbia University did and what  
25 each refused to do.

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Opening - Mr. Sanford

1           The story takes place at Columbia University. You are  
2 going to learn that Professor Ravina was a junior professor at  
3 the Columbia Business School. You will learn that Professor  
4 Geert Bekaert offered Professor Ravina a great opportunity, to  
5 work with him on a major research project.

6           You will hear testimony that the senior professor has  
7 enormous influence and power over the junior professor's career  
8 prospects. Testimony will show that the enormous influence  
9 Senior Professor Bekaert had over Junior Professor Ravina was  
10 great. Professor Ravina did not have tenure but was on a track  
11 known as tenure track, with the goal of getting tenure.  
12 Professor Bekaert has tenure and is a well-known professor in  
13 his field. Professor Bekaert's offer to Professor Ravina held  
14 the promise of solidifying her career and setting her up to  
15 receive tenure at Columbia University.

16           You will hear testimony that as research got under  
17 way, Bekaert became romantically interested in Professor  
18 Ravina. You will see and hear testimony that Bekaert pressured  
19 her to go out with him for dinners and coffees, touched her  
20 inappropriately, and routinely talked about sex. While  
21 Professor Bekaert was pressuring Professor Ravina, he stalled  
22 their research, and while he was stalling her research,  
23 Professor Bekaert told Professor Ravina that if she were only  
24 "nicer" to him, her papers would move faster towards  
25 publication. She was trapped.

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Opening - Mr. Sanford

1 Things got so bad that Professor Ravina reached out to  
2 Columbia's administrators over and over and over again for  
3 help. But Columbia would not protect or help Professor Ravina.  
4 You will hear that the dean of the Columbia Business School  
5 called Ravina's situation a soap opera and discouraged her from  
6 making a formal complaint to the university. You will hear  
7 that the senior vice dean suggested there was nothing that  
8 could be done to control Professor Bekaert and talked about  
9 Ravina leaving Columbia University. Another vice dean did  
10 nothing. A third vice dean would not intervene. You will  
11 learn that Professor Ravina met dozens of times with the chair  
12 of her division. You will hear evidence that Columbia's own  
13 office that is supposed to investigate claims of discrimination  
14 and retaliation -- the office of equal opportunity/affirmative  
15 action -- at first did not even initiate an investigation. And  
16 then, when it finally started an inquiry, its lead investigator  
17 totally botched the university's investigation and actually  
18 blamed Professor Ravina for Professor Bekaert's conduct.

19 Ultimately the office that investigated Professor  
20 Bekaert imposed no disciplinary measures on him.

21 After Professor Bekaert found out about Professor  
22 Ravina's complaints, he grew enraged, trashed her reputation in  
23 the academic community, and further sabotaged her research.  
24 Bekaert repeatedly called Professor Ravina a bitch to other  
25 economists, told them she was crazy, and said he wanted to

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1 strangle her. Professor Bekaert, who originally is from  
2 Belgium, emailed that if this is harassment, the Americans  
3 really are total pussies.

4 In an effort to help Professor Ravina, the faculty of  
5 Columbia Business School mobilized its efforts. There were  
6 unprecedented faculty protests in support of Professor Ravina.  
7 Despite the protests, the dean of the business school directed  
8 the faculty to evaluate Professor Ravina's academic record,  
9 without any reference at all to the discrimination and  
10 retaliation that she had experienced. The faculty were to vote  
11 on Professor Ravina's future, without reference to what slowed  
12 and derailed her work. The result was Professor Ravina did not  
13 get tenure and was kicked out of the university. Columbia got  
14 rid of Professor Ravina. Professor Bekaert, here with us  
15 today, remains employed by Columbia University.

16 Now I'd like to pause here for a moment to say that as  
17 the judge did, we are grateful for your service. We recognize  
18 the enormous commitment and sacrifice that is involved in your  
19 being here with us for the next two or three weeks, and on  
20 behalf of everyone on our team, and I'm sure in this entire  
21 courtroom, I thank you for that.

22 I'd also like to take this opportunity to introduce  
23 our team with us here today. We have lawyers and legal  
24 assistants and technical support, and I'd like to introduce  
25 each person and have them stand.

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1 Alexandra Harwin is a partner in our New York office.  
2 Vince McKnight is a partner in our Washington, DC  
3 office.

4 Andrew Melzer is a partner in our New York office.

5 We have two attorneys here, Amy Donehower and Melinda  
6 Koster, from our New York office.

7 We have legal assistants, Melody Wong, Ali Stack,  
8 Kremena Mestanova, and Talia Stender. Also with us is our tech  
9 support, Ray McLeod and Brian Bucher.

10 Finally, and most importantly, we represent, as I've  
11 said, Professor Enrichetta Ravina, and she's at counsel table.

12 I would like to take this opportunity to review some  
13 of the evidence you will hear in this case during the next  
14 couple of weeks. Let's start with Columbia University.

15 Columbia University is widely recognized as a top ten  
16 university in the United States and indeed is one of the  
17 premier academic institutions in the world. It has over 45,000  
18 faculty staff and students. Columbia Business School was  
19 established in 1916. It attracts students and professors from  
20 around the world. It is one of the many different schools that  
21 make up Columbia University and is one of the oldest business  
22 schools in the world. Columbia's website describes Columbia  
23 Business School as part of a group of elite business schools.

24 Columbia also claims that its mission is to develop  
25 new scholars and teachers. I would ask you to remember that

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1 phrase, "develop new scholars and teachers."

2 The Columbia Business School offers different areas of  
3 focus, such as accounting, management, marketing, negotiations,  
4 and what is central to this matter before you, finance and  
5 economics. Some of the business school's notable alumni  
6 include Warren Buffett, CEO of Berkshire Hathaway; the former  
7 CEO of Citigroup Global Wealth Management; the chairman of the  
8 Estée Lauder Companies; the president of Goldman Sachs; the CEO  
9 of Lockheed Martin; the CEO of Anheuser-Busch; the CEO of Eli  
10 Lilly; the former CEO and chairman of Avis; and the CEO of the  
11 London Stock Exchange. And there are many other equally  
12 distinguished and accomplished businesspeople who are proud  
13 graduates of the Columbia Business School.

14 This case is about that academic institution, that  
15 knew it had a junior faculty member who complained that she was  
16 being harassed and retaliated against by a male senior faculty  
17 member. Despite that knowledge, Columbia University failed to  
18 protect Professor Ravina, failed to create a safe work  
19 environment conducive to scholarly research and collaboration,  
20 and failed to take appropriate action against Professor Geert  
21 Bekaert.

22 During this trial, you are going to hear from  
23 Professor Ravina. You will learn that she was born and raised  
24 in Italy. She studied economics at the University of Torino.  
25 Professor Ravina then came to the United States and earned her

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1 doctorate in economics from Northwestern University, one of the  
2 top graduate programs in the country. After receiving her PhD,  
3 Professor Ravina served as an assistant professor of finance  
4 and economics at NYU, a visiting scholar at Harvard, and a  
5 visiting scholar at the New York Federal Reserve Bank.

6 Columbia Business School recruited Enrichetta Ravina  
7 to be an assistant professor of finance and economics. The  
8 faculty recruited Professor Ravina because she had been doing  
9 cutting-edge work in the field of household finance and  
10 behavioral finance. In 2008 Professor Ravina was hired for a  
11 tenure track position at the Columbia Business School. What  
12 this means is that Columbia would provide Professor Ravina with  
13 several years, called the tenure clock, to conduct economics  
14 research, and we're going to talk a lot about the tenure clock  
15 as this trial unfolds.

16 Professor Ravina would ideally have opportunities to  
17 collaborate and work with top scholars in the field. She would  
18 do research and publish articles. Then she would be considered  
19 for tenure, a one-shot up or down vote by the faculty that is  
20 understood as the single most important decision in an  
21 academic's career. If tenure is denied, a professor does not  
22 get another chance and must leave the university.

23 I would like to now spend a few minutes turning to  
24 Professor Ravina's research.

25 Household finance is a new field of study in which



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1 people work with enormous data sets to study how ordinary  
2 people make financial decisions. Professor Ravina analyzes  
3 lots of hard data. Even under the best of circumstances, it  
4 takes a long time to publish this kind of data-driven research.  
5 The data sets that Professor Ravina analyzes often contain many  
6 millions of data points. It can take years to prepare the data  
7 for analysis and then years more to get the research published.

8         You will hear testimony from Professor Patrick Bolton,  
9 the recent president of the American Finance Association and a  
10 distinguished professor at the Columbia Business School.  
11 Professor Bolton describes Professor Ravina's research as  
12 pioneering, ambitious, and of exceptional quality. And he will  
13 testify that it is common for research scholars in this area to  
14 publish late in their tenure clock.

15         During the 2009-2010 academic year, Geert Bekaert,  
16 then and now senior tenured professor at Columbia, approached  
17 Professor Ravina with an offer to work on a huge data set of  
18 individuals' retirement savings decisions, and you will hear a  
19 lot about that from Professor Ravina. You will learn that  
20 Professor Bekaert did not have any expertise in this area. But  
21 Bekaert could get access to the data set because he had worked  
22 for years with the company that owned the data, a company  
23 you're going to hear a lot about. The company's name is  
24 Financial Engines. Professor Bekaert told Professor Ravina  
25 that once the data were in good shape, she could publish four

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1 or five or six papers. Bekaert said this groundbreaking  
2 research would make her career. He said working on this  
3 research was the best decision Professor Ravina had ever made.  
4 Bekaert made clear that Professor Ravina would be able to  
5 publish a steady stream of high-impact papers in time for her  
6 to be considered for tenure. Professor Ravina recognized that  
7 publishing this research would be a critical component in  
8 Columbia's evaluation of her for tenure promotion.

9 Professor Ravina saw that this huge project would be a  
10 path to her tenure, to her promotion to that lifetime position.  
11 When Professor Ravina agreed to work with Bekaert and focus on  
12 this research, he held her academic career and tenure prospects  
13 in the palm of his hand. The tenure clock was ticking.  
14 Bekaert controlled the relationship with the company that owned  
15 the data and, as you will hear, he controlled the timing of the  
16 drafts of the papers. And as a result, he controlled her  
17 future and he knew it.

18 And as you will hear, the timing of the work is  
19 critical, given the tenure clock Professor Ravina was on.  
20 Producing high-quality published papers was critical in  
21 determining whether Professor Ravina would get the promotion of  
22 tenure.

23 The data for the project started to come in during the  
24 2011-2012 academic year, and Professor Ravina went to work. To  
25 kickstart this huge project, Professor Ravina put several

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1 research projects on the back burner. She was already working  
2 on a number of projects, and she put a halt to it while she  
3 started this project with Professor Bekaert. The research  
4 projects she put on the back burner themselves were years-long  
5 projects. Professor Ravina chose to embrace a great project  
6 with Geert Bekaert and, in the process, did not have the time  
7 to invest in her other projects.

8           The data concerned hundreds of companies and millions  
9 of individuals. It had around 20 million data points.  
10 Professor Ravina identified and fixed problems in the data she  
11 had received from Financial Engines. She collected extra data  
12 from other sources. She trained and supervised as many as 40  
13 research assistants to work on the project. 40. Professor  
14 Ravina also wrote numerous software codes that were essential  
15 to analyze the data. All this heavy lifting was done by  
16 Professor Ravina.

17           By contrast, Professor Bekaert, as a senior tenured  
18 professor with a totally different area of expertise, was not  
19 doing the data work. Professor Bekaert did not know how to do  
20 certain things that Professor Ravina excelled at. Professor  
21 Bekaert admitted to Professor Ravina that he was out of his  
22 depth when it came to this kind of research. In fact, you will  
23 learn that Professor Bekaert did not even know how to use the  
24 software program needed to analyze the data.

25           While Professor Ravina pored over the data and became

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1 deeply invested in this research project, Professor Bekaert  
2 began pressuring Professor Ravina to have a personal  
3 relationship with him. Professor Ravina will testify that it  
4 started in the summer and fall of 2012, when Professor Bekaert  
5 pressured her to go to private dinners. He asked about whether  
6 she had a boyfriend. He sent her romantic music. He asked her  
7 to give him compliments to reassure him that he was desirable.  
8 The advances continued in the spring of 2013, when he talked  
9 about his sex life and told Professor Ravina that her walk was  
10 sexy. Professor Ravina will testify that Professor Bekaert's  
11 harassment intensified during the fall 2013 semester. He  
12 kissed her, grabbed her hand, and leered at her breasts. He  
13 also started talking frequently about sex, including comments  
14 about pornography and prostitution.

15 The evidence will show that in late November 2013,  
16 Professor Ravina continued to see little evidence of Bekaert's  
17 contribution and went to Bekaert's office to discuss a work  
18 schedule in order to move the research along. She was  
19 frustrated because the work was not moving fast enough. Rather  
20 than speaking about the work, he spoke about his sex life. In  
21 the context of speaking of his sex life, he propositioned her.  
22 Right after speaking about his sexual exploits, Bekaert said  
23 that if Ravina were nicer to him, the papers she was working on  
24 would proceed faster.

25 The evidence will demonstrate that Bekaert was

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1 offering her a promising career if she accepted his advances.  
2 Professor Ravina rejected Bekaert's proposal. She told  
3 Professor Bekaert she was already as nice as she could be.

4 Testimony will show that because Professor Ravina  
5 refused to have a personal relationship with him, Professor  
6 Bekaert engaged in a pattern of delay by not cooperating with  
7 Professor Ravina. Bekaert would not review her work; he would  
8 not produce his own part of the work; he would not give  
9 approval for work that Professor Ravina was doing; and he did  
10 little to advance prospects for publication.

11 You will hear testimony about how Professor Bekaert  
12 routinely refused to cooperate professionally with Professor  
13 Ravina at the very same time he was expressing sexual interest  
14 in her. And some of that testimony will come from Professor  
15 Bekaert himself. At one point Professor Bekaert emailed a  
16 research assistant and admitted that he had stopped working on  
17 the project for months because Professor Ravina had really  
18 pissed him off. All the while Professor Ravina's tenure clock  
19 was running. And that tenure clock was running out.

20 You will also hear evidence that Professor Bekaert  
21 threatened to withhold from Professor Ravina anything from his  
22 draft of the paper. He even at one point threatened to leave  
23 Professor Ravina off all future emails regarding an important  
24 paper. And Professor Bekaert instructed Professor Ravina to  
25 stop writing him about their work. When Professor Ravina then

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1 requested to be treated more professionally, more respectfully,  
2 Professor Bekaert responded by threatening that he would bring  
3 a whip to their next meeting.

4 The evidence will show that Professor Bekaert's  
5 assertion of dominance and control was clear. When Ravina  
6 raised concerns about the delays, Bekaert again threatened to  
7 stop working with her on the research. And again, Bekaert  
8 failed to cooperate with Ravina because Ravina was not giving  
9 him what he really wanted. Professor Ravina will testify that  
10 she had to walk a fine line of trying to ward off Professor  
11 Bekaert's sexual advances without offending him. You will see  
12 extensive evidence of what Professor Bekaert was like when he  
13 was angry.

14 Evidence will show that Professor Bekaert asked  
15 Professor Ravina to provide him with compliments. Every so  
16 often Professor Ravina threw Bekaert one or two compliments to  
17 try to keep him happy. One time, in response, Professor  
18 Bekaert told her to keep them coming. He said he had a fragile  
19 ego. And he said he'd explain more to her one day, maybe over  
20 copious amounts of wine.

21 Professor Bekaert knew that Professor Ravina needed  
22 his collaboration. He even at one point said, "You are giving  
23 me way too many compliments. I am now waiting for the big  
24 email with stuff for me to do." Bekaert realized that a  
25 compliment from Professor Ravina was designed to get him to

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1 work.

2 You will hear testimony that compliments were not  
3 enough to get Professor Bekaert to work and that Professor  
4 Ravina understood he wanted more than just compliments. But  
5 compliments here and there were as far as Professor Ravina was  
6 willing to go.

7 As Professor Bekaert's behavior escalated, Professor  
8 Ravina realized that she could not cope with it on her own.  
9 She needed help. By early March 2014, Professor Ravina began  
10 meeting with a psychiatrist weekly and told her doctor all  
11 about the physical advances, the lewd and abusive comments, and  
12 how Professor Bekaert was stalling her research.

13 Professor Ravina suffered through over a year and a  
14 half of sexual overtures and delays from Professor Bekaert on  
15 their joint research. Shortly after seeking psychiatric help,  
16 Professor Ravina summoned the courage to speak out to Columbia  
17 about what was going on.

18 Professor Ravina will testify that beginning around  
19 April 2014, she began a series of meetings with faculty and  
20 Columbia administrators in the dean's office that lasted  
21 through the fall of 2014.

22 She met with multiple professors who tried to help  
23 her, but they had no power to do anything.

24 She met with numerous deans at the Columbia Business  
25 School. First she met with Senior Vice Dean Gita Johar.

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1 Professor Ravina described Bekaert's harassment, his failure to  
2 collaborate, and her desire to work in an environment that  
3 would allow her to do her research in peace.

4 But Ravina was afraid that Bekaert might retaliate  
5 against her once he found out about her complaints. So  
6 Professor Ravina asked for assurances from Vice Dean Johar that  
7 Professor Bekaert would not be able to damage her career by  
8 badmouthing her in the academic community. And Professor  
9 Ravina sought assurances that Bekaert would not be able to  
10 jeopardize the research she had spent years working on. After  
11 the meeting, weeks went by and Columbia University did nothing.

12 Then Professor Ravina met with another administrator  
13 in the dean's office about her concerns -- this time the vice  
14 dean, Janet Horan. Again, Columbia did nothing.

15 Then Professor Ravina met with Dean Hubbard, along  
16 with Vice Dean Horan and Suzanne Goldberg, a Columbia law  
17 professor whose expertise is gender issues. Dean Hubbard said  
18 there was nothing he could do. You will hear testimony that  
19 Dean Hubbard discouraged Professor Ravina from speaking to the  
20 office at Columbia that handles harassment and discrimination  
21 complaints. Dean Hubbard predicted, rather presciently, that,  
22 "Nothing will come out of it. They will do nothing and at most  
23 they would send Bekaert to training." Vice Dean Horan claimed  
24 that Columbia administrators would follow up with more specific  
25 action. But Columbia did nothing.



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1 Professor Ravina then sent an email to Dean Hubbard  
2 and Vice Dean Horan asking them to implement some measures,  
3 promptly, to help her with her work. Columbia did nothing.

4 Professor Ravina then met with another senior vice  
5 dean, Katherine Phillips. Vice Dean Phillips talked to  
6 Professor Ravina about abandoning her research and suggested  
7 there wasn't anything she could do to control Bekaert's  
8 behavior. Again, Columbia did nothing.

9 You will see evidence that Dean Hubbard viewed  
10 Professor Ravina's concerns as a waste of time. And you will  
11 hear evidence that Dean Hubbard blamed Professor Ravina. At a  
12 subsequent meeting with Professor Ravina in the fall of 2014,  
13 Dean Hubbard referred to Professor Ravina's situation as a soap  
14 opera and scolded her, saying you, Professor Ravina, should  
15 behave more professionally.

16 Now we reach a key moment in the story. Four years  
17 ago today, on July 9, 2014, the dean's office alerted Professor  
18 Bekaert of Professor Ravina's complaints against him. Bekaert  
19 became enraged, sending an email asking if he could just  
20 strangle Ravina and get it over with. You will hear and see  
21 extensive testimony that Professor Bekaert began a campaign of  
22 retaliation that included Professor Ravina's nightmare  
23 scenario. Professor Bekaert began sending emails to colleagues  
24 in the academic and finance community throughout the world,  
25 referring to Professor Ravina as an evil bitch in action, a

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1 damn evil bitch, and insane and incredibly evil. And to make  
2 matters even worse, Bekaert sent those emails from his official  
3 Columbia email account through the Columbia email server.

4 Now there is an office at Columbia that can provide  
5 help in situations like this. The office of equal opportunity  
6 and affirmative action is Columbia's office that handles  
7 complaints of discrimination, harassment, abusive conduct, and  
8 retaliation. The university's director of investigations,  
9 Michael Dunn -- and he'll testify here during the trial --  
10 conducted the investigation. Professor Ravina will testify  
11 that when she met Director Dunn, she described Professor  
12 Bekaert's sexual advances. She expressed concern that  
13 Professor Bekaert was retaliating against her, and she  
14 explained that Bekaert had delayed her research for a long  
15 time. She also reported that Columbia administrators had done  
16 virtually nothing to help her.

17 You will hear testimony that Director Dunn, who  
18 conducted this investigation, felt overwhelmed by his workload  
19 at Columbia. You will hear testimony that there were only two  
20 or three investigators responsible for handling all  
21 discrimination and retaliation complaints for all of Columbia  
22 University's faculty, staff, and students.

23 Director Dunn will acknowledge that he interviewed  
24 only one witness apart from the principals -- apart from  
25 Professor Ravina and Professor Bekaert. And the only

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1 third-party witness they investigated admitted that she was  
2 biased and very loyal to Professor Bekaert.

3 Six months after Professor Ravina's initial complaint,  
4 Columbia ended its investigation. Columbia stated that Bekaert  
5 had not violated its sexual harassment policy. Columbia stated  
6 that Ravina was to blame, claiming that she did not communicate  
7 effectively regarding her concerns about the status of her  
8 papers. Dunn's recommendation was that Professor Bekaert  
9 receive training. The final letter said that training would  
10 just be about appropriate professional communications -- not  
11 sexual harassment, not retaliation, not abusive conduct; about  
12 appropriate professional communications.

13 After Columbia concluded its EO/AA investigation, the  
14 equal opportunity/affirmative action investigation, the  
15 university took the position that there was nothing it could do  
16 to help Professor Ravina. No one took responsibility for  
17 supervising Bekaert or regulating his behavior, and no one in  
18 the administration acknowledged the toll his behavior had taken  
19 on the progress of Professor Ravina's work. Columbia did not  
20 provide Bekaert with the so-called training until six months  
21 after Columbia's investigation ended. Columbia never presented  
22 that training to Professor Bekaert as a disciplinary measure.  
23 Vice Dean Horan told Professor Bekaert that training would just  
24 be a conversation. You will see evidence that Professor  
25 Bekaert felt vindicated after Columbia's training.

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1           Now here is another very key point in the story. The  
2 evidence will show that after Columbia's investigation ended,  
3 Professor Bekaert retaliated against Professor Ravina by  
4 slowing the research down even further. Professor Bekaert's  
5 colleagues advised him to step away from the research, but  
6 Bekaert had another plan.

7           Just two months after Bekaert learned of Ravina's  
8 complaints, Professor Bekaert boasted how he could block  
9 Professor Ravina's research. He was keenly aware of how much  
10 power he held over Professor Ravina. You will see evidence  
11 that Professor Bekaert intended to ignore Professor Ravina's  
12 work. You will see evidence that Professor Bekaert sent  
13 Financial Engines, the company with the data that controlled  
14 the data, an email disparaging Professor Ravina. Recognizing  
15 how damaging this email was, he asked the recipient at  
16 Financial Engines to delete the email, to destroy it, after the  
17 person read it.

18           After Columbia's investigations ended, Professor  
19 Bekaert's obstruction became even more brazen. He refused to  
20 share with Professor Ravina his draft of their paper and the  
21 software codes needed to prepare the paper. You will see  
22 evidence that on December 5, 2014, right after Columbia's  
23 investigation ended, Bekaert told Dean Hubbard that he was  
24 simply not going to send the codes, not going to send the vital  
25 research. And he sent an email to his research assistant

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1 saying also he was not going to send the codes that Professor  
2 Ravina needed to finish her work. Without the codes, no  
3 drafts. Without the drafts, no papers get published. Without  
4 published papers, no tenure. And Professor Bekaert knew it.

5 Bekaert told Dean Horan that he was not giving  
6 anything to Professor Ravina, and even then, Columbia did  
7 nothing.

8 Professor Ravina's psychiatrist diagnosed her with  
9 generalized anxiety disorder. Her anxiety was so profound that  
10 she was having difficulty concentrating and completing work,  
11 which continues to this day. You will hear testimony that her  
12 emotional state deteriorated. She felt abandoned and betrayed  
13 by Columbia. Years of abuse from Professor Bekaert derailed  
14 her ability to complete her publications.

15 With that knowledge, Professor Ravina requested that  
16 Columbia defer her tenure process. Deferring the tenure  
17 process would mean that Professor Ravina would have more time  
18 to publish papers before Columbia would make a decision on  
19 whether she would get tenure. She was asking for more time.  
20 The tenure decision is based partly on a professor's  
21 publication record, so extra time to get papers done would  
22 significantly improve Professor Ravina's chances of getting  
23 tenure.

24 (Continued on next page)

25

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1           And Professor Ravina needed that extra time because of  
2 the delays she suffered due to Bekaert's actions and his  
3 inaction.

4           In the summer of 2015, Dean Hubbard sent Ravina a  
5 letter confirming that Ravina would be on paid leave for the  
6 2015 to 2016 academic year and stating that her annual review  
7 is currently on hold, paid leave, 2015 to 2016 academic year.

8           So she understood that her tenure process would be  
9 deferred for at least one year. In September 2015, Professor  
10 Ravina filed a lawsuit against Professor Bekaert alleging  
11 gender discrimination and retaliation.

12           Two days later -- two days later -- Ravina suggested  
13 to Columbia's administration that she might need to bring a  
14 suit against Columbia as well.

15           The Columbia administration immediately went to work.  
16 A few days later, after Professor Ravina informed the  
17 administration that she might bring suit against Columbia,  
18 Senior Vice Dean Phillips left Professor Ravina a voice mail  
19 claiming that Dean Hubbard's letter confirming that paid leave  
20 for 2015/2016 was a mistake.

21           At the end of the fall of 2015 semester Professor  
22 Ravina notified Columbia that a lawsuit now was imminent  
23 against it. Immediately thereafter, Senior Vice Dean Phillips  
24 announced to Division Chair Zeldes that Columbia's senior  
25 administrators had met with the lawyers and decided to move

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1 quickly on Enrichetta's tenure case. They met with the  
2 lawyers, and they decided to move quickly.

3 The following day, Chairman Zeldes told Professor  
4 Ravina that her tenure process would begin immediately and that  
5 she would need to submit her tenure materials in one month.

6 Columbia has a policy that allows a professor to  
7 extend her tenure process if she has a personal hardship.  
8 Professor Ravina wrote to the provost requesting leave through  
9 the end of 2017, 2018. Columbia denied Professor Ravina's  
10 extension request.

11 Columbia would not give her the personal hardship  
12 leave that Columbia's own policies allow. Instead, the vice  
13 provost claimed that Professor Ravina would have to give up her  
14 title of assistant professor for her to be even temporarily off  
15 the tenure clock.

16 Columbia would only provide Professor Ravina with what  
17 would amount to, at most, a two-month extension of her deadline  
18 in order to submit her application.

19 By contrast, you will hear evidence that Columbia had  
20 given a male faculty member six extra years to do more  
21 research. Columbia was determined to press forward with the  
22 vote on her tenure application. Professor Bolton sent a letter  
23 to Division Chair Zeldes expressing his discomfort about  
24 holding a meeting to vote on Professor Ravina's tenure at all.

25 In particular, Professor Bolton -- and you will hear

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1 from Professor Bolton in this trial -- raised concerns about  
2 voting because Bekaert prevented Professor Ravina from pursuing  
3 research for years.

4 Columbia would not consider Professor Ravina's  
5 extension request, and ultimately gave her less than a week to  
6 submit her tenure application. Ultimately Professor Ravina  
7 felt she had no choice but to file this case against Columbia  
8 charging discrimination and retaliation.

9 This set Professor Bekaert off again and he continued  
10 to trammel Professor Ravina's reputation. After the filing of  
11 this lawsuit and right before her tenure vote took place,  
12 Professor Bekaert sent e-mail after e-mail after e-mail bad  
13 mouthing Professor Ravina to industry figures across the  
14 country and, you will see, around the world.

15 Using his official Columbia e-mail account, Professor  
16 Bekaert sent e-mails to professors around the world that  
17 disparaged Professor Ravina as an evil bitch, a fucking bitch,  
18 an unbelievable bitch, a damn evil bitch, an evil bitch in  
19 action, an incredible mean bitch, crazy, insane, mentally  
20 unstable, sick, paranoid, schizophrenic, berserk, and  
21 incredibly evil, among others.

22 He railed against discrimination laws claiming that  
23 the laws in this country are screwed up and totally biased  
24 against privileged white males.

25 The damage to Professor Ravina's reputation has been



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1 worldwide, and Professor Ravina's career prospects have been  
2 severely damaged.

3 When the tenure meeting was scheduled, faculty members  
4 threatened to boycott. Columbia postponed the meeting because  
5 it was concerned that not enough faculty would take part in the  
6 vote. Instead Dean Hubbard gathered the faculty and told them  
7 that she should disregard Professor Ravina's circumstances and  
8 focus only on her academic record as it existed at the time.  
9 In other words, they had to look at her record in a vacuum  
10 without reference to all the things that had occurred.

11 The evidence will show that Dean Hubbard also gave the  
12 faculty the false impression that Professor Ravina had been  
13 offered an opportunity to defer her tenure process by at least  
14 one year. In fact, Columbia would have made her submit her  
15 tenure application that same semester no matter what.

16 Constrained by Dean Hubbard's instructions that the  
17 professors not consider Ravina's claims of sexual harassment,  
18 gender discrimination and retaliation, the faculty voted to  
19 deny Professor Ravina tenure.

20 In sum, ladies and gentlemen, the evidence will show  
21 that professor Ravina suffered years of sexual harassmt and  
22 retaliation.

23 You will see that Columbia knew about the abusive  
24 behavior and enabled all of this to happen to Professor Ravina.

25 You will see that Columbia did not protect Professor

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1 Ravina.

2 And you will see the actions Columbia took that harmed  
3 Professor Ravina.

4 After all this, it was no surprise that Professor  
5 Ravina was denied tenure. I am sure you will listen to the  
6 evidence carefully. At the end of this trial you are going to  
7 have an opportunity to hold Columbia and Professor Bekaert  
8 accountable.

9 Thank you very much.

10 THE COURT: Thank you.

11 MR. SANFORD: Thank you, your Honor.

12 THE COURT: On behalf of Columbia?

13 MS. PLEVAN: Good afternoon, ladies and gentlemen.

14 THE DEPUTY CLERK: Ms. Plevan, one second.

15 Let me get the microphone.

16 THE COURT: I may have said this during jury  
17 selection. It can be very difficult to hear in this courtroom,  
18 so if at any time you can't hear the witness, myself, or one of  
19 the lawyers please just raise your hand.

20 Thank you.

21 MS. PLEVAN: Good afternoon my name is Bettina Plevan.  
22 Together with Steven Hurd, Rachel Fischer, and Kramer Rice  
23 we're representing Columbia University. And also here during  
24 the trial will be representing representatives of the office of  
25 general counsel, but today Patricia Catapano.

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1           We will be presenting our case, of course, after  
2 plaintiff, Professor Ravina, but you will hear perhaps some key  
3 university witnesses testify during plaintiff's case at her  
4 request.

5           During the trial, we will present extensive and  
6 convincing proof, both documents and witness testimony, that  
7 gender played no role in the decisions by the university  
8 affecting Professor Ravina and that Columbia did not retaliate  
9 against her because she made a complaint of discrimination or  
10 threatened and did bring a lawsuit. The evidence will show  
11 that Professor Bekaert did not influence and in fact had  
12 nothing to do with the key decisions that Columbia made to deny  
13 her tenure and her request and to deny her request for a leave  
14 of absence.

15           Professor Ravina's own colleagues, the professors that  
16 she worked with in her division, are the ones who unanimously  
17 voted against granting her tenure in April 2016. And you will  
18 hear that she was denied tenure because she did not even come  
19 close to achieving the quality and quantity of publications  
20 needed for tenure at a top business school. Professor Bekaert  
21 did not participate in that process at all.

22           You will also hear that her colleagues, these  
23 professors in her division that voted against her, unanimously  
24 concluded that, even if Professor Ravina had had several more  
25 years to work on her research papers, she would not achieve a

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1 record warranting tenure. I will explain a little more what  
2 that evidence will be.

3 The evidence will also show that Columbia did not  
4 retaliate against Professor Ravina when it denied her a third  
5 leave of absence in 2016 when she requested yet another leave.  
6 Instead, it followed its usual practice of offering her what's  
7 called a break in service with a change in title. The title  
8 change was required by Columbia's rules, and it was its  
9 longstanding practice. In fact, it had never been done. This  
10 extra time had never been given in the way that she wanted it.

11 Again, Professor Bekaert played no role in these  
12 decisions at all. They were made by the provost's office at  
13 the university, not at the business school, and in accordance  
14 with past practices.

15 Finally, the evidence will show that Columbia promptly  
16 and thoroughly addressed Professor Ravina's complaints about  
17 Professor Bekaert's behavior.

18 Now, Columbia University, as you heard and may know,  
19 is one of the leading universities in the world, one of the  
20 oldest in the United States.

21 In addition to its graduate school, its undergraduate  
22 school, there were graduate schools in many different fields,  
23 social work, public health, medicine, law, and business.

24 This case involves the Columbia Business School, which  
25 is one of the leading business schools in the United States, if

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1 not the world. It is highly selective in the admission of  
2 students, in hiring faculty, and, of course, in granting  
3 tenure. The business school has its own dean, Glenn Hubbard,  
4 who you will hear testify, and other deans who participated in  
5 responding to the concerns that Professor Ravina raised. But  
6 at the heart of this case is Professor Ravina's failure to  
7 achieve tenure at Columbia because that is what led to her  
8 departure the following year.

9 Like most universities, Columbia awards tenure to its  
10 highest achieving professors, and, as you may know, tenure is  
11 in effect a guarantee of lifetime employment. That's because a  
12 tenured professor can only be terminated for cause and only  
13 after a long, involved process of review, ending in a hearing.

14 It's a very serious process to award someone tenure.  
15 You will be hearing a lot of evidence, a description of the  
16 tenure process at the Columbia Business School and the very  
17 detailed rules about the timing of a tenure decision. The  
18 rules are kind of set in stone, and they're written in  
19 something called the statutes.

20 There are also practices that have been followed for  
21 many years by the provost's office. I'll mention just some of  
22 those terms. You have heard about them from plaintiff's  
23 counsel, and you will be hearing them also during the course of  
24 the trial.

25 First, under the longstanding rules of the university,

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1 every junior faculty member on a tenure track has what's called  
2 an up-or-out date. That's the date by which a decision must be  
3 made to grant or deny tenure.

4 Professors who are hired without tenure are expected  
5 to achieve a sufficient prominence and to have a body of  
6 scholarship, that is, research and writing, to achieve or to  
7 warrant a grant of tenure at that point.

8 The point is usually the spring of the person's sixth  
9 year at the school, but absolutely must be by the end of the  
10 seventh year. If they don't achieve tenure at that point,  
11 they're permitted one final year, so that the total time is  
12 eight years. But if they are not granted tenure by the end of  
13 the seventh year, they must leave at the end of the eighth  
14 year.

15 Now, since every person is guaranteed that final year  
16 after a tenure vote, as I said, the vote must take place at the  
17 end of the seventh year, which for Professor Ravina was the  
18 spring of 2016, and she was at the end of her time.

19 Now, this eight-year maximum period is enforced by  
20 another rule that's called de facto tenure. Others who know  
21 this rule will explain during the course of the trial,  
22 particularly Christopher Brown, who was then the vice provost  
23 of Columbia University.

24 This means, the de facto tenure rule says that if a  
25 person for some reason remains after the eighth year, even if

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1 they were not voted tenure, they have tenure automatically.  
2 Presumably the purpose of that rule to ensure that there are no  
3 mistakes made or things granted this kind of status granted by  
4 chance. So everyone pays a lot of attention to these timing  
5 rules.

6 This is all relevant because of Professor Ravina's  
7 request to get more time and also because she complains that  
8 she was being rushed, that by scheduling the tenure vote in the  
9 spring of her seventh year, that somehow Columbia was  
10 retaliating against her.

11 But, as you will hear, all of these rules required  
12 that she go up for tenure in the spring of 2016, her seventh  
13 year, so that she wouldn't receive tenure automatically by  
14 default.

15 You may be wondering, I've talked about this sort of  
16 rigid timetable, whether there are any exceptions to those  
17 rules, for example, if people are ill or have child care leave.  
18 The university recognizes those types of exceptions, and  
19 specifically provides in the faculty handbook to give people  
20 extra time if, for example, for maternity leave, for child care  
21 leave, for disability leave. These are very expressly stated  
22 in the faculty handbook. Of course, Professor Ravina did not  
23 apply for those because she didn't qualify for either of those  
24 types of leaves.

25 What was discussed with her is not a leave of absence,

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1 but something called a break in service. That's when a faculty  
2 member goes off the track, so to speak, and takes a position  
3 that is not a faculty titled position. They're able to get  
4 additional years of research and writing.

5 In the case of Professor Ravina, because of the  
6 concerns that she expressed about her work having been slowed  
7 down, Dean Hubbard went to the provost of the university to ask  
8 him to offer her a break in service to give her the additional  
9 time that she wanted to satisfy the requirements for tenure.

10 She was offered that. She was offered a break in  
11 service with a change in title to research associate scholar.

12 She rejected the offer. She didn't want to change her  
13 title, and the male that was referenced earlier took a change  
14 in title. He got a break in service. He didn't get a personal  
15 hardship leave; he got a break in service. That's what the  
16 evidence will show. And he was calling himself a curriculum  
17 specialist.

18 She was offered the title of research associate  
19 scholar. Had she accepted that offer, she would have remained  
20 at Columbia for a year or two and doing her work. But she  
21 rejected that proposal, as you will hear.

22 You will also hear that for a long period of time  
23 Professor Ravina did not have adequate research productivity  
24 and publications and that she, as I said, earlier was not even  
25 close when she came up for tenure.



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1           We know that because two years have passed since  
2 Professor Ravina left -- since her tenure vote two years ago,  
3 and she's not published anything in a peer-reviewed publication  
4 in that two-year period. She's published one paper in what's a  
5 non-peer-reviewed paper, meaning one that is not edited by  
6 other scholars and reviewed by other scholars.

7           It will be clear to you from all the testimony about  
8 her work and her failure to publish that no matter who she was  
9 working with, or even if she was working alone, the evidence  
10 will show that Professor Ravina has always had trouble  
11 finishing her papers. She will even tell you about papers she  
12 started work on years ago, even before she got to Columbia,  
13 while she was at NYU, that have languished on her desk for five  
14 or more years without her doing the revisions necessary to  
15 complete them and submit them for publication.

16           So, while it is not uncommon for scholars to have  
17 their papers rejected in the first instance and receive  
18 comments back that they have to address, a person who's hoping  
19 to achieve tenure really needs to bring the research to the  
20 point where it can be published.

21           As you will hear from the evidence, Professor Ravina  
22 simply couldn't, or in any event didn't accomplish this  
23 objective. It was really, therefore, inevitable that when she  
24 came up for tenure at the last possible moment for her in April  
25 of 2016 that she did not qualify and would not receive tenure.

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1           We will also present evidence showing that Professor  
2       Ravina had been told earlier this was not a new decision by her  
3       colleagues. She had been told that her prospects were poor.  
4       You will see that in the annual reviews she received. Each  
5       year the reviews were more pessimistic, more negative, to the  
6       point that by 2014, the spring of 2014, two years before the  
7       tenure vote, she was told that the prospects for her to obtain  
8       tenure were really nil and that she should start looking for  
9       another position. It was just soon after that, within a month,  
10      that Professor Ravina first made complaints about Professor  
11      Bekaert's behavior.

12           Under the strict tenure timeline I mentioned earlier,  
13      it was expected that Professor Ravina would come up for a  
14      tenure vote probably the end of her sixth year.

15           That didn't happen then because she was trying to  
16      negotiate through her lawyer a leave of absence or some other  
17      extension. But no agreement was ever reached. At that point  
18      steps had to be taken, again because of these technical rules  
19      of requiring a vote at a certain point, unless there was an  
20      agreement or an acceptance on her part of this break in service  
21      that had been offered to her and which she continued to reject.

22           So the business school could not wait any longer and  
23      had to move forward because those are the rules. This was all  
24      communicated to her in a letter from her division head in  
25      December 2015 telling her she needed to prepare her material,

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1 she had to prepare a CV, but she already had one of course, and  
2 submit her papers and a personal statement.

3 The tenure vote in fact was delayed to accommodate  
4 her, to allow her to finish, because she didn't submit her  
5 material until early March of 2016.

6 Now, consistent with practice of the division, the  
7 chair appointed -- his name is Stephen Zeldes. He appointed  
8 what is called a reading committee to conduct an in-depth  
9 review of Professor Ravina's work and to make a recommendation  
10 to the other faculty members.

11 There were four members of the reading committee, two  
12 of whom were women, including the chair, Wei Jiang, who you  
13 will hear testify. Another was a friend, one of the male  
14 members of the committee, Daniel Wolfson was someone who  
15 Professor Ravina was friendly with. The reading committee  
16 reviewed all of her work from the beginning, from the time she  
17 finished graduate school, papers that were published and many  
18 that were not published and were in draft.

19 They reviewed her other activities as well. As you  
20 will hear Professor Jiang say, although her contributions to  
21 the school were good, her scholarship -- meaning, again, the  
22 quality, not just the quantity, but also the quality of her  
23 publications fell well short of the mark. That's the testimony  
24 you're going to hear.

25 And you will see the documents that were presented to

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1 the other faculty members at that tenure review meeting.

2 As Professor Jiang will explain, the reading committee  
3 unanimously recommended that Professor Ravina be denied tenure  
4 because of the lack of publications and the low quality or not  
5 high enough quality.

6 The reading committee, as you will hear, considered  
7 the impact of the delays caused by her conflicts with Professor  
8 Bekaert and compared her accomplishments to people who were  
9 much more junior, had fewer years in the field, and the  
10 comparison was again not close.

11 For that reason, they recommended that she be denied  
12 tenure, and the division itself at the meeting also voted.  
13 There was one abstention, but otherwise the vote was unanimous.  
14 Not one person voted affirmatively to grant Professor Ravina  
15 tenure.

16 So the evidence will show that this decision was made  
17 by objective people -- none of the deans you have heard about  
18 were at that meeting -- and people who had no animus against  
19 Professor Ravina, and some who were her friends and supporters,  
20 that they voted no. Professor Bekaert, again, did not attend  
21 the meeting, did not participate in any way in this tenure  
22 process.

23 Now, to return for a minute to the issue of leave of  
24 absence, Professor Ravina talks about action that was taken  
25 after she either filed a lawsuit or threatened a lawsuit. As I

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1 said earlier, what she asked for was a personal hardship leave,  
2 but the evidence will show that this was denied to her for  
3 valid institutional reasons and not because she made a claim of  
4 discrimination.

5 One peculiar argument you will hear from Professor  
6 Ravina relates to this June 2015 letter she got, the annual  
7 dean's letter. She received the letter in late August, and it  
8 mistakenly used the word "leave" in the context of the dean's  
9 expression of a hope that she would do more writing in her  
10 upcoming leave. That's what it said. It didn't say "grant a  
11 leave." You will see the letter in evidence.

12 But Professor Ravina claims that these two words, your  
13 "upcoming leave," meant she had been granted a leave of  
14 absence, an absence, a leave she hadn't at that point applied  
15 for because months earlier her lawyer was talking to Columbia  
16 University lawyers about somehow giving her more time.

17 She was told, and it is undisputed that she was told  
18 by the end of September that this mistake had occurred and it  
19 should have referenced, the letter -- you will hear from those  
20 involved in signing and writing it -- that it was intended to  
21 refer to the fact that she would have the relief from teaching  
22 that coming year. She would not have to teach.

23 But apparently you will hear to this day she believes  
24 this letter granted her more time on the tenure clock than in  
25 fact was provided. This was all made clear to her then.

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1 To go back to what I mentioned earlier, what was  
2 offered to her was a break in service, the opportunity to take  
3 time as a research associate scholar. That's what had been  
4 consistently done by the university in situations like this.

5 It was offered to her. It was actually offered to her  
6 with pay, but she rejected it. Not only did she reject the  
7 idea, but, as the evidence will show, she wouldn't even meet  
8 with the vice provost, Chris Brown, or the senior vice dean,  
9 Kathy Phillips, to discuss what her options were.

10 Around this time, January of 2016, they both sent her  
11 either letters or e-mails practically begging her to meet with  
12 them so that they could explain what her options were under the  
13 university's procedures and how that option would give her time  
14 at least to have a shot at tenure.

15 She refused to meet with them. Part of that dialogue  
16 was the denial of what she asked for, the personal hardship  
17 leave.

18 As the vice provost will explain, he denied this  
19 request because she had been offered what had been done in the  
20 past at the university, this break in service, take a different  
21 title. He was unable to determine whether a personal hardship  
22 leave had ever been granted by the university, certainly not in  
23 recent times, as he will tell you.

24 He will also tell that you Professor Ravina asked for  
25 a paid personal hardship leave when right in the faculty

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1 handbook it says that personal hardship leaves are unpaid  
2 leaves.

3 With all of that information, the vice provost thought  
4 it did not make sense to go in a direction that might set a bad  
5 precedent when an offer had been made to her for the break in  
6 service. That was her choice not to take that.

7 The other issue that I want to address is what the  
8 evidence will show about Columbia's response to Professor  
9 Ravina's complaints about Professor Bekaert. What the evidence  
10 will show is that when Professor Ravina first complained about  
11 Professor Bekaert it was in May of 2014. That's a meeting with  
12 the then vice dean, Gita Johar. The evidence is conflicting.  
13 Professor Johar will say there was no discussion about sexual  
14 harassment or sexual advances. She complained at that meeting  
15 about the conflict over the writing and that things were not  
16 moving quickly.

17 They had been working together at that point for four  
18 years on this dataset project. Professor Ravina was feeling  
19 the pressure of running out of time and felt the work was  
20 moving slowly, and that is what she complained to Vice Dean  
21 Johar about in May of 2014. That is what she complained about.

22 She then met with Dean Johar, raised the issue with  
23 Dean Hubbard, Dean Hubbard scheduled a meeting with her and the  
24 others that you will hear about.

25 In that meeting in June of 2014 also no discussion

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Opening - Mr. Sanford

1 about sexual harassment or anything like that. There was a  
2 discussion about conflict. And there was a long discussion and  
3 there were proposals made. At that meeting, as you will hear,  
4 there was some consensus even about how to go about speaking to  
5 Professor Bekaert, how to protect Professor Ravina by ensuring  
6 that Professor Bekaert would not participate in any way in her  
7 tenure vote, and that efforts would be made to persuade him to  
8 work more quickly on her projects. They will describe these  
9 meetings then very differently from Professor Ravina.

10 You will hear from a number of witnesses about all the  
11 things the business school did to respond to her concerns.  
12 These individuals, these various deans and other faculty  
13 members had meetings, dozens of the meetings with the  
14 participants. They had e-mails back and forth, which you will  
15 see, dozens and dozens of e-mails trying to get them to work  
16 together on these projects in an effective way and to move the  
17 research along.

18 It wasn't until Professor Ravina meet with Vice Dean  
19 Kathy Phillips in July of 2014 that Professor Ravina for the  
20 first time raised an issue beyond the conflict in the work and  
21 raised an issue about gender being possibly a component of what  
22 was going on.

23 At that point, she -- that is, Dean Phillips -- as you  
24 will hear, met with Dean Hubbard immediately, and they took  
25 steps under the university's policies to contact the EOAA



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1 office, the equal opportunity affirmative action office at the  
2 university level. It was within a few days.

3 Specifically, they sent a written summary of what they  
4 had heard, and they are the ones who reported this to the  
5 office EOAA office, not Professor Ravina.

6 At the university, as soon as they were aware, the  
7 office opened up an investigation, and this was done by -- that  
8 office is independent. It is not part of the business school.

9 You will hear from several people about the  
10 investigation. Primarily you will hear from Michael Dunn, who  
11 was the one most involved. Mr. Dunn is a lawyer by training,  
12 with lots of experience in this area. He's now the head of  
13 Title IX office at a college in Maryland.

14 He conducted an investigation. He met extensively  
15 with both Professor Bekaert and Professor Ravina because  
16 virtually everything that they were talking about involved just  
17 the two of them. There weren't other witnesses. And he  
18 reviewed a lot emails. He wrote a report in which he concluded  
19 in good faith that he did not find evidence that Professor  
20 Bekaert had engaged in sexual harassment.

21 He did recommend that he get training. And, although  
22 it was delayed for whatever reason, the training did take  
23 place.

24 All of the intervention by the business school did  
25 help alleviate the conflict as well. I will give you some

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Opening - Mr. Sanford

1 specifics you will hear about.

2 First, Professor Bekaert agreed as a result of  
3 communications with the dean's office that he would withdraw  
4 from one of the papers and let Professor Ravina do it totally  
5 on her own. That was her request, and he agreed to do it.

6 It was called the Automatic Enrollment Paper for  
7 short. Professor Ravina has had complete control over that  
8 paper, as you will hear, since 2015, but to this day that paper  
9 has not been published or even submitted for publication.

10 Another major paper they were working on together was  
11 called the International Diversification Paper. A deadline was  
12 set for Professor Bekaert to respond. He responded within a  
13 few hours of the deadline, ultimately with his revisions and  
14 comments, and the paper was accepted for publication before her  
15 tenure review and in time to be considered as part of the  
16 tenure review.

17 Now, Professor Ravina is now back at the Kellogg  
18 School at Northwestern, where she earned her Ph.D. Although  
19 she did not get tenure at Columbia, she has a two-year visiting  
20 professorship at the Kellogg School, which is a very, as she  
21 will say, more highly regarded school than Columbia.

22 At the end of the trial, we will sum up all the  
23 evidence about the tenure review and her leave requests, and,  
24 as the deans I mentioned to you will explain, their efforts to  
25 support her research work which were substantial. You will

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Opening - Mr. Hernstadt

1 hear about that.

2 But at the end of the day what you will hear in the  
3 testimony is that her scholarship was not sufficient in quality  
4 or quantity to warrant an award of tenure. In responding to  
5 her requests for more time, the university offered her an  
6 approach that was consistent with its strict tenure rules and  
7 its past practice, but she rejected that offer.

8 For all these reasons, at the end of the case, we will  
9 ask you to return a verdict in favor of Columbia University.

10 Thank you.

11 THE COURT: Thank you. Why don't we take a short  
12 break now, and then we will hear Mr. Bekaert's. Please  
13 remember don't discuss the case and keep an open mind.

14 (Jury not present)

15 THE COURT: So we will start again in ten minutes.

16 Thank you.

17 (Recess)

18 THE COURT: Can we bring the jury in.

19 (Jury present)

20 THE COURT: Everyone can be seated.

21 Mr. Hernstadt.

22 MR. HERNSTATD: Good afternoon. If it please the  
23 Court, ladies and gentlemen of the jury, my name is Edward  
24 Hernstadt. I represent the defendant Geert Bekaert in this  
25 case.

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Closing - Hernstadt

1 MR. HERNSTADT: It's late. It's been a long day. I  
2 promise you I'm going to be a little briefer than my esteemed  
3 colleagues, so hang in there.

4 In 2009, Geert Bekaert offered the plaintiff,  
5 Professor Enrichetta Ravina, the extraordinary opportunity to  
6 work with him as co-equal authors on a massive data set of  
7 almost 4 million 401(k) plans. After discussing the project,  
8 they both believed that a number of important research papers  
9 could evolve from the data about how and why people invest in  
10 their retirement savings.

11 You will hear that Professor Bekaert invited Professor  
12 Ravina to work on the project because of her familiarity with  
13 big data sets, how to manipulate all that information, but also  
14 because he thought that the opportunity for the papers that  
15 could come out of this data would be very helpful to a young  
16 junior professor's career. In return, in 2014, Professor  
17 Ravina turned on Professor Bekaert and blamed him for her  
18 inability to complete or publish her academic papers and the  
19 inevitable result of that failure, the fact that she would  
20 almost certainly not be granted tenure at the Columbia Business  
21 School, two years later, when she came up.

22 In the end, based on all the evidence that you will  
23 hear and see, this is a story of the betrayal of a research  
24 partnership and a friendship through scapegoating to evade the  
25 consequences of failure to publish, rather than a case of

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Closing - Hernstadt

1 discrimination or retaliation. You will hear that Professor  
2 Bekaert, who also came to the United States, from Belgium, for  
3 his graduate studies and has stayed here, has been a tenured  
4 professor in finance and economics at Columbia since 2000.  
5 He's a respected and prolific author with more than 65  
6 published papers.

7 You'll also hear that Professor Ravina, who joined  
8 Columbia in 2001, with a single published paper, had a meager  
9 record of publications and had been told in faculty reviews  
10 since 2011 that her lack of publications meant that it was  
11 unlikely she would receive tenure. In academia, the catch  
12 phrase is "publish or perish."

13 So with her fate increasingly clear, Professor  
14 Ravina's complaint against Professor Bekaert in 2014 and this  
15 lawsuit are basically her Plan B for getting tenure.

16 In listening to the testimony and in reviewing the  
17 evidence about their relationship as co-authors and friends  
18 between 2009 and 2016, the timetable of events is crucial. It  
19 falls into two distinct periods. There's a "before" period,  
20 from 2009 to 2014, and then the "after" period, when Professor  
21 Ravina made the complaint in 2014.

22 You will hear that although both professors were  
23 supposed to start work on the 401(k) project soon after they  
24 first contacted Financial Engines, which is the company that  
25 had all the data, in 2009, it took two years, until late

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Closing - Hernstadt

1 October 2011, for them to even have a contract with Financial  
2 Engines for the data -- a contract, by the way, that put both  
3 Professor Ravina and Professor Bekaert in the same position.  
4 Neither one of them had more power or less power. They were  
5 co-equal. And then it took another year, until the summer of  
6 2012, before the bulk of the data was actually delivered and  
7 they could start working with it.

8           You will hear testimony that Professor Bekaert and  
9 Professor Ravina were ready to start writing the first 401(k)  
10 research paper in April 2013. That is about a year before she  
11 first complained. And then by the end of December 2013, it was  
12 actually completed and submitted to various conferences,  
13 initial drafts of two papers.

14           Despite the success, you'll hear that in the spring of  
15 2014, after Professor Ravina received her third straight  
16 negative faculty review, their communications changed  
17 drastically. This started the "after" period of their  
18 co-authorship. You will see that the tone of the emails  
19 between them are much sharper and much more critical, and  
20 Professor Ravina's writing emails to Professor Bekaert that  
21 criticized him for not moving fast enough. And Professor  
22 Bekaert's emails in response are sometimes intemperate and  
23 edgy. Professor Ravina complained at Columbia about the tone  
24 and the contents of these emails in the spring of 2014; and  
25 subsequently, a few months later, added charges of sexual

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1 harassment and delay of her work, all of which Columbia  
2 investigated.

3 Let me say one thing about Professor Bekaert's  
4 communication skills, because the emails between him and  
5 Professor Ravina in the spring of 2014 and some of the other  
6 e-mails you heard discussed by plaintiff's counsel are pretty  
7 pungent. He was known by many at Columbia as the blunt  
8 Belgian, and this is for a reason, because sometimes he's  
9 brusque, he could sometimes be rude, but you will see evidence,  
10 emails that will be shown to you of years of interacting  
11 between Professor Bekaert and Professor Ravina where the  
12 content and the tone is perfectly cordial. They even share  
13 occasional mutual bluntness about each other, tempered by  
14 respect. And that tone is completely absent in the "after"  
15 emails.

16 For example, starting in the spring of 2014, every  
17 email -- and all these emails are about work -- from Professor  
18 Ravina to Professor Bekaert routinely contain claims that  
19 Professor Bekaert's delaying work on their 401(k) project, even  
20 as the paper that they're discussing in these emails was  
21 speeding its way to publication.

22 Now you've heard that in this lawsuit Professor Ravina  
23 claims that Professor Bekaert discriminated against her on the  
24 basis of her gender. However, through the course of this trial  
25 you'll hear testimony, you will see a wealth of evidence

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1 demonstrating that he did not treat Professor Ravina  
2 differently because of her gender and he did not retaliate  
3 against her after she complained at Columbia about him or after  
4 she filed this lawsuit. Regarding discrimination, you'll hear  
5 plaintiff say that for about 18 months, starting at a dinner in  
6 September of 2012, Professor Bekaert began infusing the  
7 discussions with sexual innuendo and she understood him to be  
8 making sexual advances to her. Professor Ravina also claims  
9 that he delayed her work and pressured her to respond to those  
10 advances and, when she refused, he retaliated against her by  
11 further delaying. The evidence, though, will demonstrate that  
12 Professor Bekaert made no advances of any kind, had no romantic  
13 interest of any kind in Professor Ravina, and did not delay  
14 their joint work.

15 For example, you're going to hear about everyday  
16 events like dinners -- there were five of them in a couple of  
17 years -- or the two of them having coffee together, or  
18 Professor Bekaert sending to Professor Ravina music to listen  
19 to. These are not romantic events. These are perfectly normal  
20 things that co-authors, that colleagues, that friends, they do  
21 together all the time. These events happened. There were  
22 dinners, there were coffees, he did send her music. But  
23 there's no evidence that they were because of her gender or  
24 because he wanted anything from her in any kind of romantic  
25 way.



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1           You will also hear testimony about certain events,  
2 such as supposed discussions of pornography while they're  
3 online in a student coffee shop or discussions of sexual  
4 exploits, or the placement of Professor Bekaert's hand on  
5 Professor Ravina's hand at a dinner. Or a kiss on the cheek.  
6 These are events that just simply did not happen. The evidence  
7 will show that the only reason Professor Ravina says that  
8 something like the fact that they actually went to dinner  
9 together is harassment is because after the fact, years after  
10 the fact, she decided to call it that.

11           You'll see evidence that Professor Ravina never told  
12 Professor Bekaert she didn't want dinner with him, that having  
13 meals together or coffee together was unwelcome. She sent him  
14 emails thanking him for dinner. She took the leading role in  
15 planning them. She made all the reservations, she picked all  
16 the restaurants.

17           You'll also hear about other incidents that start with  
18 something that did occur. For example, Professor Bekaert  
19 indeed spent a sabbatical semester in Asia, and he naturally  
20 shared some of his experiences there with Professor Ravina when  
21 he got back. But then these stories are then twisted out of  
22 all recognition into something that never happened. The  
23 evidence is clear that Professor Bekaert took no action towards  
24 Professor Ravina based on her gender. He never asked her for  
25 sex or even for a date. He never said that she would have to

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1 sleep with him for them to work on their papers. Indeed,  
2 you're going to learn that during this time frame of 18 months,  
3 or perhaps a little longer, depending on the testimony,  
4 Professor Bekaert was in New York for only four or five months.  
5 He spent eight months in Asia, he spent a great deal of time  
6 traveling to conferences around the country, and around the  
7 world.

8 The evidence will show that they were friends as well  
9 as co-authors. During the "before" period they shared aspects  
10 of their personal lives. For example, you will see how  
11 Professor Ravina commented on how handsome Professor Bekaert  
12 looked in a magazine article about him, a magazine interview  
13 with him. And she shared with Professor Bekaert how hot she  
14 thought a certain actor was. She invited him to dinner, she  
15 invited him for coffee. She asked him to send her music and  
16 thanked him for it. She told him that she dreamed of Belgian  
17 chocolate. It's perhaps expressed most strongly in the April  
18 2013 email from Ravina to Bekaert thanking him for his advice  
19 and saying how nice he is to her for all he does.

20 You will also learn that Professor Ravina never told  
21 Professor Bekaert she was uncomfortable with anything he did or  
22 anything he said. This is not the behavior of somebody who  
23 finds conduct like having co-authors having dinners or coffees  
24 together to be harassing or unwelcome.

25 In considering Professor Ravina's claims, please keep

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1 in mind the timing. The timing is going to be key. You will  
2 hear testimony and see emails running from 2009, when Professor  
3 Bekaert first invited her to join him as the co-author on the  
4 project, through 2016. You will hear that even Professor  
5 Ravina had no complaints about their co-authorship until  
6 sometime in late 2012. After that dinner, the evidence shows  
7 they had virtually no personal contact for more than six  
8 months, until April 2013, when they had a dinner and a lunch,  
9 during the one week that Professor Bekaert was in New York, the  
10 first eight months of that year. That April lunch is  
11 particularly meaningful because they met after Professor Ravina  
12 emailed Professor Bekaert about a negative faculty review she  
13 had just received, in which her poor tenure prospects were  
14 discussed.

15 The majority of the complaints about Professor Bekaert  
16 took place or are alleged to have taken place in the fall of  
17 2013, following his return from sabbatical. Ironically, this  
18 is an extremely productive period of work for them. During  
19 that fall they wrote two papers and submitted them both to  
20 conferences.

21 After the success of 2013 with two drafts, you will  
22 hear that Professor Ravina was given yet another negative  
23 faculty evaluation in the spring of 2014, discussing her  
24 increasingly poor tenure chances. This evaluation was even  
25 more devastating than the one in 2013, where she asked him to

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1 meet for lunch to talk about what she could do. She complained  
2 to the dean's office. After this meeting, after this  
3 devastating evaluation, the prospect of tenure was fading, and  
4 it was fading increasingly fast. So she responded by launching  
5 her Plan B. She went to the dean's office and she complained  
6 that Bekaert was rude and abusive and delaying.

7           Professor Ravina's initial complaints were based on a  
8 series of emails between the two of them in March, April, and  
9 early May 2014. Now you're going to see these emails. They're  
10 long. They're back and forth, back and forth. And you'll have  
11 an opportunity to read them and to look at them and to see what  
12 everybody says, as opposed to hearing a pulled quote or hearing  
13 that they're rude. And sometimes they are. The first set of  
14 emails, you'll see that Professor Ravina canceled an interview  
15 with a research assistant they were considering hiring. But  
16 she didn't tell Professor Bekaert, so he was the only one who  
17 showed up at the Saturday meeting that they had arranged to  
18 interview this guy, and understandably, he was upset, and he  
19 communicated his unhappiness in a sharp email.

20           April and May emails then focus on the lack of a  
21 research assistant to work on the 401(k) project. Professor  
22 Bekaert was upset with Professor Ravina's unilateral decision  
23 not to hire an assistant because it meant that work on these  
24 papers would be stymied and the project would be delayed. You  
25 will see that Bekaert is clearly irate and expresses himself

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1 coarsely and in a less-than-professional manner, something that  
2 plaintiff focuses on, and complained about it. But the  
3 evidence will show that the most frustrating thing to Professor  
4 Bekaert about these emails is the delay to the 401(k) project  
5 caused by Professor Ravina's refusal to respond about how they  
6 would move the project forward without a research assistant.

7 You will also hear testimony that these exchanges were  
8 actually unnecessary, because Professor Ravina, a month later,  
9 casually informed Professor Bekaert that she planned to act as  
10 a research assistant herself.

11 The timetable is also key to understanding the  
12 evidence that, far from delaying their joint work, Professor  
13 Bekaert was Professor Ravina's most productive co-author, even  
14 more so than herself, on her own papers. Between 2013 and  
15 2016, they created two new papers, one of which was accepted  
16 for publication in time for tenure consideration. Between 2009  
17 and 2016, Professor Ravina did not finish either one of the  
18 single-authored papers on which she'd been working for many  
19 years.

20 Now let me take a second to ask your patience for my  
21 focus on the timetable and all the dates that I'm sharing with  
22 you. These will become very familiar to you. You're going to  
23 see the emails, you're going to hear the testimony. And  
24 they're central to understanding what really happened here,  
25 because they put Professor Ravina's Plan B into very clear

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1 focus. I'm going to ask you to do your best.

2 And while I'm at it, let me take a second to explain  
3 what I mean by a single-authored paper. In the sort of  
4 specialized world of business school professors, they focus  
5 intensely on research and publishing. You will hear that  
6 single-authored papers, which were written by just one person  
7 as opposed to two, three, four people, give more benefit to the  
8 author than co-authored papers, and in publications, a paper in  
9 certain top journals also carries more weight.

10 You will learn that before Professor Ravina and  
11 Professor Bekaert started receiving data on the project in  
12 2012, Professor Ravina had two single-authored papers in what  
13 is called the R&R phase, the status, at important journals.  
14 You will hear that R&R papers are papers that have been  
15 complete, they've been submitted to a journal, they've been  
16 reviewed by referees at the journal, and then they're sent back  
17 to the author to revise based on comments from the journal  
18 before it's finally resubmitted for publication. This is a  
19 very late phase, a paper that's almost done, almost ready to be  
20 published.

21 You will also learn that despite Professor Bekaert's  
22 urging Professor Ravina many times over and over and over  
23 again, between 2011 and 2014, to finish her R&R papers, she did  
24 not.

25 Professor Ravina's inability to complete her work is

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1 also important to recall in the context of her claim that  
2 Professor Bekaert delayed or obstructed. The evidence is clear  
3 that Professor Bekaert did not cause any delays on the 401(k)  
4 project between 2009 and 2012, or even the spring of 2013, when  
5 they're ready to start writing the first paper. During that  
6 same period, Professor Ravina did not finish or submit for  
7 publication either of her single-authored papers.

8           You're going to learn that Professor Bekaert removed  
9 himself from one of the 401 papers in February, by no later  
10 than February 2015, turning it over to Professor Ravina to  
11 complete on her own, and again, she didn't. She hasn't. The  
12 other 401 paper, the international diversification paper that  
13 Ms. Plevan mentioned, was drafted, presented at conferences and  
14 universities multiple times by both Professor Ravina and  
15 Professor Bekaert. It was redrafted and it was accepted for  
16 publication at a top journal in time for her tenure  
17 consideration. That type of success, that type of production,  
18 is not delay. That's a triumph.

19           You will hear about Professor Ravina's expectations  
20 about work that she stated she has to do. In April 2013 she  
21 sent an email to Professor Bekaert after a negative faculty  
22 review and she lists four papers she says she has to complete  
23 by the spring of 2014. Only one of those papers was a 401(k)  
24 paper with Professor Bekaert. Two of them were her  
25 single-authored R&Rs. Ironically, we know that the only one

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1 that actually got finished was the paper with Professor  
2 Bekaert, that she accomplished nothing on her two  
3 single-authored papers.

4 Finally, the evidence will demonstrate that Professor  
5 Bekaert did not take any actions to harm Professor Ravina in  
6 response to her complaining to Columbia about him. You will  
7 see, you will hear plaintiff stating he interfered with her  
8 work and tried to damage her reputation in the profession.  
9 However, the evidence will show that he did not.

10 Professor Ravina will point to emails, and you've  
11 heard some of the content of those emails -- they're strong,  
12 they're striking -- that Professor Bekaert sent. These are  
13 emails that he sent to his girlfriend and to his closest  
14 friends. These are emails that express his hurt and his sense  
15 of shock. This is an all-too-human reaction, and the actual  
16 words used may be surprising and they may be shocking in  
17 isolation, but placed in the context of the evidence, the  
18 handful of very pained emails that Professor Bekaert sent, they  
19 express the understandable distress of a man who's been  
20 betrayed by someone he considered a friend and a co-author.  
21 You will see these emails. You will hear testimony about them.  
22 You will have a chance to place them in their proper context.  
23 And there's no evidence that will be presented to you to show  
24 that any of these emails to his girlfriend or to his close  
25 friends harmed Professor Ravina's reputation or that she would



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1 have been surprised that he sent them in the first place.

2 You will hear that following Professor Ravina's filing  
3 of this case, she posed for a photo shoot, she gave interviews  
4 to various press outlets about her lawsuit, and that those  
5 publicity efforts were successful and it resulted in articles  
6 in all the major New York newspapers, as well as articles and  
7 publications and comments on blogs that are followed by members  
8 of their profession, including students.

9 You will hear that the press coverage was extremely  
10 negative about Professor Bekaert. And in response, he sent  
11 emails to a number of co-authors, to friends and to colleagues  
12 about it to salvage his reputation. Again, although you'll see  
13 some of these emails and the responses that Professor Bekaert  
14 sent to his friends and colleagues and co-authors contain very  
15 strong language, such a response to an intentional and damaging  
16 publicity campaign is hardly surprising. And there's no  
17 evidence that these emails hurt Professor Ravina. She's been  
18 working at another top business school since the day she left  
19 Columbia.

20 The evidence presented over the next days by a variety  
21 of witnesses and in many, many emails and other documents will  
22 paint a clear picture of Professor Ravina's Plan B and her  
23 scapegoating of Professor Bekaert and her effort to get around  
24 the incontrovertible fact that her scholarship and publications  
25 did not come close to meeting the level required to be awarded

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1 tenure, to earn tenure, at Columbia Business School. The  
2 evidence will show that Professor Bekaert did not engage in any  
3 sexualized contact of Professor Ravina or take any actions  
4 towards her based on her gender, or in retaliation. Rather,  
5 whether in friendship or in frustration, you will hear that  
6 everything Bekaert did or said to Ravina he would have done or  
7 said to any colleague, or any friend, male or female.

8 Based on all of this evidence -- and you will have a  
9 chance to see it, to place it in context, to understand it --  
10 we're confident you will reach a verdict in favor of Professor  
11 Bekaert.

12 Thank you.

13 THE COURT: All right. Thank you.

14 So ladies and gentlemen, I know it's been a long day.  
15 I think it makes sense actually just to have you go home  
16 tonight and come tomorrow morning.

17 Again, we're going to start promptly at 9:30.  
18 Breakfast will be waiting for you at 9. And we'll start with  
19 the testimony in the morning.

20 Please remember just don't discuss the case, don't  
21 research the case, keep an open mind, and have a nice evening.

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(Jury not present)

THE COURT: Everyone can be seated.

So we can meet tomorrow at 9 as well to discuss some of the outstanding issues, but one question I did want to ask, based on I believe it was Columbia's opening statement, was the offer for Professor Ravina to be a research associate scholar part of a settlement agreement, part of settlement negotiations in some fashion? Because again, I still have to decide about the appropriateness of her offer to waive the de facto tenure issue, and so I'm trying to get a sense of what constituted settlement discussions and what didn't.

MS. PLEVAN: No, it wasn't conditioned on anything, and there's a letter -- I mean, actually, I think there are two letters. There's a letter from the vice provost to her as well as from Kathy Phillips telling her this is what is available.

THE COURT: All right. Okay.

MS. PLEVAN: So that's primarily what we'd be relying on as the evidence.

THE COURT: Okay. Does anyone want to be heard on anything else tonight, or I'll see you tomorrow morning at 9 a.m.?

MR. MELZER: I just wanted to mention --

THE COURT: Use the mic. As I said, it can be difficult for people to hear.

MR. MELZER: Thank you, your Honor.

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1 I wanted to mention that we will be submitting the  
2 letter that we spoke about on de facto tenure as soon as  
3 possible. We just need to check on some dates.

4 THE COURT: Okay. All right. Thank you very much.

5 So I'll see you all tomorrow at 9. Have a nice night.

6 ALL COUNSEL: Thank you, your Honor.

7 (Adjourned to July 10, 2018, at 9:00 a.m.)  
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